

SOCM

KNOX COUNTY

EVICITION DEFENSE GUIDE



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What is an **eviction**?



An eviction is a series of **legal actions** taken against a tenant by a landlord with the intention to retake possession of a property and remove any current occupants.



In other words, you can only be legitimately evicted by a judge and the sheriff's department - not just your landlord!

BASIC PROTECTIVE TACTICS



PAY RENT ON TIME →

Stay up to date on rent + utility payments. Make sure you are consistent with your payments and try to avoid waiting until the last minute if possible.



TN does have a late payment grace period



You have **5** days, including the day that rent is due, to settle any payments before it can be legally considered **late**



DOCUMENT EVERYTHING

Keep as detailed records as possible of every payment, exchange, repair, issue, and other property related matter.

Having solid accounts of important dates, payment totals, and unit conditions can be very helpful in times of confusion or dispute.



KNOW YOUR RENTAL AGREEMENT

Be familiar with all of the terms and conditions of your lease agreement.

This can include everything from required rent payments, length of the lease contract, and restrictions/specific rules.

STANDARD EVICTION TIMELINE

The Four Main Phases

1

WRITTEN NOTICE TO QUIT

This is the first sign that there is a potential issue with your current inhabitation. At this stage, you should: **be able to identify the concerns your landlord is having with your tenancy.**

2

DETAINDER WARRANT FILED

This is the first court action taken to evict a tenant. At this stage, you should: **receive an official warrant that provides a court date, time and location for a civil hearing concerning your tenancy.**

3

COURT APPEARANCE

In this phase, a general sessions civil court hearing will take place. At this stage, you should: **try to negotiate a fair deal or appear before a judge to present your case and defend your tenancy.**

4

JUDGMENT FOR POSSESSION & EVICTION

If you arrive at this final phase, a judge has ordered that you are to be evicted from your current residence. At this stage, you should: **vacate the property within 10 days after the decision was made or file an appeal.**

1

WRITTEN NOTICE TO QUIT

What is a notice to quit?

A notice to quit, which may also be called a 'notice to vacate', alerts a tenant of a violation of their lease agreement and calls the tenant to either resolve the issue or move out of the property.

How will you receive it?



MAIL AND DOOR TACK

A written message will be posted to the front door of your unit and/or mailed to you.

OR



FACE TO FACE

Your landlord will verbally communicate the notice to you in person.

Spoken notice is NOT legally enough to replace written notice.

Is your landlord required to give you a written notice to quit before filing for an eviction?



Your Landlord **is required** to present a written notice before filing an eviction in court when:

You have violated any condition or rule in your lease and you have not waived the requirement for a written notice in the official lease agreement or lease addendum.



The only time a written notice is **not required** is if you have waived the requirement in cases of nonpayment of rent. This would have to have been provided in your lease agreement in **bold 12 point font**.

HOW LONG DO YOU HAVE ?

The amount of time you are given to either vacate the unit, pay all owed debt, or resolve any issues is dependent on the specific reason for eviction.



Failure to Pay Rent or Specific Lease Violation

If you live in a federally subsidized property, your landlord **may** be required to allow 30 days of notice before filing a detainer warrant.

In some cases, for violations that can be cured by payment or repair, the landlord **may** allow 14 days for you to cure the violation. If you cure, the landlord may not file a detainer warrant. In other cases where you cannot cure, the landlord may file the detainer warrant 14 days after you receive the written notice to quit.



Vacate or a Detainer Warrant may be filed



Repeat Breach of Conduct or Lease Violation

If a tenant was served a notice to quit, resolved their issues, and was allowed to remain in the unit, but then commits the same or a similar violation within 6 months of receiving their last notice, a landlord can file a detainer warrant 7 days after the most recent notice was delivered.



Illegal use of Property or Illicit Activity

Any activities or dangerous recreation that present reasonable safety or health concerns for other tenants or the surrounding area can justify a detainer warrant with only 3 days notice before the warrant is filed.

WHAT ACTIONS CAN YOU TAKE WHEN YOU RECIEVE A WRITTEN NOTICE TO QUIT?

1. Comply by paying all money owed, or agreeing to obey your lease rules and requirements moving forward.
2. Continue paying your rent, utilities, and upholding all responsibilities under the lease
3. Reach out to local resources for help or further consultation.

Looking for a resource to talk to?



Look to Page 17 for resources to help legally and finacially!

WHAT A LANDLORD CANNOT DO AT THIS TIME?

Watch out for an '**unlawful ouster**'!

Your landlord cannot turn off any necessary utilities during this time including power, heat, and water.

This also means they cannot prevent you from entering by removing the front door or changing any locks.

Landlords are also prohibited from removing any of your possessions from the unit.

Your landlord also cannot attempt to evict you in **retaliation** for exercising your legal rights.

This means that your landlord cannot seek to evict you as revenge for you acting justly under the law, such as complaining about the conditions of the property or contacting a public agency to inspect the unit.

2 A DETAINER WARRANT IS FILED

What is a detainer warrant?

A detainer warrant is the landlord's complaint in court, created when a landlord files for possession of the property. It also works as a summons to court for the tenant.

What will it say?

It will provide a date, time, and location for you to attend a hearing, usually in general sessions court.

How will you receive it?

A member of the sheriff's department, or sometimes a private process server, will deliver it directly to the tenant, or post it on your door.

A Court Hearing?!

Do not be intimidated or scared by the idea of going to court or having a deputy deliver you a warrant. You are not being criminally charged, and you have rights to **due process in court**. Do not skip your court date, or you will lose the chance to enforce your rights!

Don't confuse a Detainer Warrant with a Lease Termination Letter!

A lease termination letter can be written by a tenant or landlord informing the other party of their intentions to end the current lease agreement, typically given as a 30 day notice.

WHAT CAN YOU DO WHEN A DETAINER WARRANT IS FILED?

1

Contact an attorney. You have rights as a tenant, and may have defenses to the eviction. A lawyer can help.

2

Contact your landlord and negotiate. Sometimes, you can work out an agreement to prevent court action and keep a judgment off your record.

3

Plan on attending your court date. The best way to get help is to come to court. Even if you leave the property, move out, etc., attend your hearing to protect your record. If you don't, you will lose by default, even if you have moved/paid, etc.

4

WHAT A LANDLORD CANNOT DO AT THIS TIME?

- Shut off any essential utilities such as water, heat, or power.
- Create a detainer warrant themselves without first filing it in court.
- File a detainer warrant until after the proper notice period has expired (see page 6).

3 COURT APPEARANCE

What happens in court?

Eviction lawsuits usually take place in general sessions court. You and your landlord will stand before a judge and both be given the opportunity to present your case. The judge will then come to a decision about whether or not the unit's possession will be released back to the landlord or not.

HOW TO PREPARE FOR YOUR COURT DATE:



ORGANIZE + COLLECT



KNOW YOUR DATE

Make sure you know:

- ☐ the hearing date
- ☐ courthouse location
- ☐ time of the hearing



PLAN AHEAD

Plan to arrive at the courthouse at least 15 minutes early. **Go directly INTO the courtroom**, or you may miss your case.

Find reliable transportation.

Dress appropriately. Do your best to wear clean, formal attire. Try not to wear ripped or dirty clothes, or inappropriate apparel. You will not be allowed in with shorts on.

Organize & Collect all Records and documents related to your rental agreement, lease, and property.

WHAT SPECIFIC DOCUMENTS SHOULD YOU BRING?

- Lease Agreement
- Written Notice to Quit/Vacate (if one exists)
- Copy of Detainer Warrant
- Proof of Any Payments and Receipts
- Any Records of Neglect or Relevant Correspondence from the Landlord
- You can present documents on your phone if needed

HOW TO PREPARE FOR YOUR COURT DATE

Legal Counsel?

Should you have legal counsel?

It is very possible you may need legal counsel, and consulting an attorney may be your best move. An attorney can help you ensure that the eviction process is fair and legal. Attorneys can also help you with alternative options and keeping your rental record clean from evictions.

How do you get legal counsel if you choose to have it?

You can seek legal counsel through Legal Aid of East Tennessee. Legal Aid of East Tennessee provides free civil legal representation to those that need it most.

How do you represent yourself?

It is possible to represent yourself. Some helpful tips in considering self representation are:

- Talk to the landlord or their attorney before your case is called
- Carefully consider any agreement to vacate you are offered, and weigh it against the possibility of eviction
- Pay attention to the timeline
- Visit the courthouse ahead of time
- Get your evidence lined up
- Take time to practice telling your story

1

2

3

4

ALTERNATIVE OPTIONS

There are other options to resolving the dispute in court. Mediation is a popular method.

Mediation?

What is mediation?

Mediation is a process where the parties involved meet with a mutually selected impartial person who assists them in the negotiation of their differences. General Sessions Court has a mediation team on-site during every eviction court date.

How does mediation work?

Mediation can only happen if both parties, the landlord and the tenant, want it to happen. When pursuing mediation, the tenant will come in and discuss alternative options with the landlord and a third party. If an agreement is made in mediation, the judge isn't needed.

How to seek mediation?

Mediation can be sought out by one party, but it is important to remember that it cannot happen without both parties' consent.

Judges can also suggest mediation on the same day of court. In that case, if an agreement is not met, the parties can go back to court the same day and be heard by the Judge.



THE RIGHT TO APPEAL

In Tennessee, tenants have the right to appeal the court's decision in the eviction process.

What does it mean to file an appeal?

An appeal is a formal request for a higher court to review your case in a brand new trial. This can be done by either a tenant or landlord if one party disagrees with the judge's decision and believes an error was made at the first trial. Filing an appeal will result in another hearing in a different court as if the first had never happened.

How to File an Appeal:

- You must file an appeal with the General Sessions Court Clerk within **10 days** of the court's judgment. Day 1 is the day after you went to court.
- The renter must pay a year's worth of rent as a cash bond in order to appeal the eviction, plus court filing fees.

IMPORTANT NOTES ABOUT COURT:

If you have an emergency, get sick, or have a legitimate reason preventing you from attending your court date, call the court clerk.



Call: (865) 215-2518



You are **not** being **criminally charged**.
The eviction process is a civil (non-criminal) proceeding, so you will not be arrested in connection with an eviction case.

4 WRIT OF POSSESSION/EVICTION

What is a writ of possession?

This is a legal document served by the sheriff's department requiring that a tenant leave a unit immediately.

This will be filed by your landlord and approved by the court 10 days after a judge has made the decision to evict you.

WHEN?

A writ of possession can be executed 10 days after the judgment for possession if you do not file an appeal. If the 10th day falls on a Saturday or Sunday, this won't happen until Monday.

Eviction & Moving Out Information

1

- Your Landlord cannot use any force or threaten to remove you from the property. Only Law enforcement has the right to physically remove you.

2

- If law enforcement does show up to remove you: **cooperate and communicate calmly.**
- Before you leave the unit for good: take pictures of how you left the property, in case of any future disputes.
- Return your keys and leave the property.

3

PERSONAL BELONGINGS + PROPERTY

4

- **After an eviction in Tennessee, personal property in a rental unit is NOT treated the same as abandoned property.**
- **After a court ordered eviction and execution of a writ of possession, if any personal property is left behind, the landlord may eventually remove the remaining belongings and dispose of them.**
- **The landlord may place any items outside the dwelling for 48 hours.**
- **If, after 48 hours, the tenant does not collect the belongings, they can be disposed of or sold by the landlord.**

AFTER EVICTION:WHAT NOW?

How does this affect your **record** and **credit score**?

Record

Eviction is placed on your **public record**.

This means that it will be visible when looking for new places to lease. This can make it difficult to find places to lease in the future. Eviction reports will generally remain part of your rental history for **7** years.

Even if you are not evicted and your case is dismissed or you negotiate a deal with your landlord, the record that a detainer warrant was filed with the court will remain on your record.

Credit

Evictions will not show up on your credit report, but **unpaid balances** will.

If you have outstanding balances, even after eviction, you still need to pay them. The sooner you can pay, the better, because interest may collect on the balance. This unpaid amount will affect your credit report.

If you're unable to pay the entire amount, try negotiating with the landlord or collection agency. Payments go directly to the court clerk's office after a judgment is entered.

After you've paid, ensure the outstanding balance is removed from your credit report. Be sure to ask the collection agency or property manager about this after each payment.

CONTACTS & RESOURCES

Legal & Court Assistance

Legal Aid of East Tennessee

- 607 W Summit Hill Drive SW, Knoxville, TN 37902
- (865) 637-0484
- <https://www.laet.org/contact-us/>

Community Mediation Center

CMC Main Office

- Old Courthouse, Suite 305, 300 Main Street, Knoxville, TN 37902
- (865)594-1879
- <https://2mediate.org/contactus/>

Housing & Energy Support Programs

Knoxville - Knox County Community Action Committee

- Ross Building, 2247 Western Avenue, Knoxville, TN 37921
- (865) 546-3500
- Executive Director: barbara.kelly@knoxcac.org
- Human Resources: CACHR@knoxcac.org

Knoxville Utilities Board (KUB)

- 4428 Western Avenue, Knoxville, TN 37921
- (865)524-2911
- <https://www.kub.org/about/contact-us/kubfibersupport@kub.org>

Utilities Assistance