EVICTION PROCEDURE INFORMATION

www.co.portage.oh.us

First and foremost, the clerks of the Portage County Municipal Court are not attorneys, and they cannot legally give you advice. If you are unsure about your rights, or the procedures to follow, you should contact an attorney. This procedure guideline is intended to be informative only. As each situation is different, this guide should not be construed as replacing an attorney. You should also take note that all corporations and other similar organizations must be represented by an attorney in eviction proceedings.

An eviction, also known as a forcible entry and detainer action, is a lawsuit filed by a landlord asking the court to remove a tenant from rental property. A typical eviction is filed due to the tenant's failure to timely pay the agreed upon rental amount and is commenced with the landlord's service upon the tenant of a proper notice. If you have any questions about what type of notice you must use, you should contact an attorney. Attached to the complaint should be a copy of the notice served.

Every lawsuit is filed based upon a specific set of circumstances, and as such, the proof required will vary from case to case. Generally however, at the hearing, the landlord should be prepared to establish at least the following facts:

1. The reason for the eviction;
2. The type of notice served, and the date upon which the notice was served;
3. How the notice was served, and by whom. The person who served the notice may be required to testify as to the date and manner of delivery.

The date of the eviction trial is the proper time for both sides to present their evidence and testimony to the Court. If either side has evidence such as cancelled checks, pictures, written documents, receipts, etc., the original and a copy should be brought to Court on the day of the hearing. A written statement from a witness will usually NOT be accepted, so make arrangements to have your witness present.

Once the hearing has been concluded, the Judge or Magistrate will usually indicate whether or not the landlord is entitled to what is called a "writ of restitution". This is the authority for the landlord to be allowed to retake possession of the rental unit. If the tenant is told to vacate the premises, and does not vacate voluntarily, the landlord will have the right to file for the "writ of restitution".

If it is necessary to file the writ of restitution, the property owner shall file instructions with the clerk's office to issue the writ to the Sheriff's department and pay the required fee. Once this order is received by the Sheriff's department, they will be in touch with the property owner and tenant to schedule a move-out date.

NOTICE TO LEAVE PREMISES
(THREE DAY NOTICE)

Three Days Does Not Necessarily Mean Three Days

The eviction process begins with the serving of a "Notice to Leave Premises". According to ORC 1923.04, the party can be served with this notice 'by certified mail, return receipt requested, or by handing a written copy of the notice to the defendant in person, or by leaving it at the defendant's usual place of abode or at the premises from which the defendant is sought to be evicted'. The notice must contain specific, conspicuous language which is set forth in ORC 1923.04.

But one thing to watch out for is that three days does not mean 72 hours. The day of posting does not count towards the three days in the Notice. Further, any day upon which the Court is not open, such as Saturdays, Sundays, and holidays, does not count either. If you miscount and file your eviction before the three days have fully passed, then this will result in the case being dismissed.

Let's look at an example. The landlord posts the three day notice on the Thursday in mid January. The eviction cannot be filed with the Court until the following Thursday. Here is why: The Thursday that the landlord posted the three day notice will not count. Thus, Friday will be day one. Saturday and Sunday will not count, since the court is not open on those days. Monday won't count because the Court is closed for Martin Luther King Day. That makes Tuesday the second day and Wednesday the third day. The next Thursday will be the earliest that the landlord can file the eviction.

For more information you may visit: www.ohiolandlordtenant.com

PORTAGE COUNTY MUNICIPAL COURT

www.co.portage.oh.us

Ravenna Municipal Court
203 W Main St PO Box 958
Ravenna OH 44266
Phone 330.297.3635 Fax 330-297-3526

Kent Municipal Court
303 East Main Street
Kent OH 44240
Phone 330-678-9170 Fax 330-678-5107

FORCIBLE ENTRY AND DETAINER /COMPLAINT FOR EVICTION

OHIO REV. CODE SECS. 1901.18; 1923.01

CASE NUMBER_____

PLAINTIFF (LANDLORD)

NAME

ADDRESS

PHONE NUMBER FAX NUMBER

E-MAIL ADDRESS

DEFENDANT (TENANT)

NAME

ADDRESS

-vs-

PLAINTIFF (LANDLORD)

NAME

ADDRESS

PHONE NUMBER FAX NUMBER

E-MAIL ADDRESS

DEFENDANT (TENANT)

NAME

ADDRESS

FIRST CAUSE OF ACTION

1. Plaintiff(s) states that they are the owner(s) of the premises. The address that the tenant is to be evicted from is: _____.
2. Defendant is a tenant at the premises under a _____ lease which began _____ *(date)*.
   (oral or written)
3. Defendant is in default of the lease/rental agreement because_____.
4. On _____, *(date)* plaintiff served defendant with a 3-day notice to leave the premises pursuant to RC 1923.04.
   (3-DAY NOTICE SHOULD BE FILED WITH COMPLAINT)
5. Defendant has, since_____, *(date after the notice period expired)* unlawfully and forcibly detained from the plaintiff possession of the above-described premises.

SECOND CAUSE OF ACTION

Plaintiff for the second cause of action states that the Defendant is indebted to said Plaintiff in the sum of $_____ as rent for the above named premises through _____, on a rental basis of
(amount owed in back rent) *(date)*
$_____ per month plus per Diem $ _____ until premises are vacated, plus other damages of $_____.
(monthly rental amount) *(rent divided by 30 day)*

DATE_____

_____
PLAINTIFF (LANDLORD)

NOTICE TO ALL LANDLORDS

By order of the Ohio Supreme Court, only the owner of the rental property or a licensed practicing attorney may file a complaint for eviction or money damages against a tenant. A building manager or agent designated by the landlord other than an attorney may not sign a complaint for eviction or appear on behalf of the landlord in any court proceeding. For further information, see Cleveland Bar Association v Pickio, 96 Ohio St. 3d 195 (2002).

If the property is owned by a corporation or a limited liability company, only an attorney can represent the property owners in Court.

Failure to comply with this requirement may be grounds for dismissal of the case at any stage of the proceedings.

PC 1583 Rev. 11/11

NOTICE TO LEAVE PREMISES

REV. CODE SEC. 1923.04

Date: _____

_____
Tenant's Name(s)

_____
Tenant's Street Address

_____
Tenant's City/State/Zip

Dear_____:
(Tenant's Names)

The purpose of this notice is to ask you to LEAVE the premises now in your possession, situated in

_____, Ohio and known as:
(City) (County)

_____
(full address and suite number of rental)

together with the lot of land on which these premises are located. You are being asked to LEAVE for the following reason: (state reasons for eviction)

Your compliance with this Notice within _____ days after its service will prevent any further eviction action against you.

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

Yours Respectfully,

_____
Landlord (signature)

_____
Print name of Landlord

_____
Address

_____
City, State, Zip Code

_____
Telephone Number