



# EVICTI<sup>ION</sup> PREVENTION



## DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Office of Landlord-Tenant Affairs

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[www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)



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Eviction is the court-ordered removal of the tenant and the tenant's personal belongings from a rental property. A tenant may be evicted for non-payment of rent, breach of the lease agreement or tenant holding over. A tenant in breach of lease has violated some portion of the lease agreement and the landlord feels that this violation warrants their removal from the property. A tenant holding over has been given notice to vacate by a particular date by the landlord or has given notice that they will vacate by a particular date and has not done so.

In Maryland, only the District Court can issue an order to allow a landlord to take possession of a rental property. The landlord does not have the right to evict a tenant without an order from the Court carried out by the Sheriff, who must be present at all evictions. The landlord cannot change the locks or remove the tenant's belongings without going through proper judicial process. Any lock-out of a tenant without proper judicial process is prohibited by law and exposes the landlord to substantial civil liability.

Payment of rent is under the sole jurisdiction of the Maryland District Court. A tenant filing a complaint with the Office of Landlord-Tenant Affairs or Housing Code Enforcement will not stop any proceedings against them in the District Court and the mere filing of a complaint does not mean that the tenant does not have to pay rent. While the Office of Landlord-Tenant Affairs encourages tenants to file complaints if there are problems with the rental property, the landlord also has the right to file against them in District Court.

Filing a complaint may be helpful if a tenant believes that the conditions of the property are a threat to their health and safety and warrant not paying the rent. In such a case, a tenant should file a Rent Escrow action. Filing a rent escrow action is the only legal way for a tenant not to pay the rent to the landlord. The rent is still owed and will be put in escrow with the Court until the judge decides whether or not the landlord is entitled to collect it. Housing Code Enforcement can verify these conditions and order the landlord to correct them. The Office of Landlord-Tenant Affairs can advise a tenant of their rights and pursue any violations of Landlord-Tenant law they discover.

Life is often difficult and if a tenant finds themselves in danger of eviction, they should seek assistance as soon as possible. There are many resources available for tenants in this situation and a list of the basic available resources are listed in this pamphlet.

**DISCLAIMER:** *This pamphlet is not legal advice but is an informative tool to help landlords and tenants. Although the information is believed to be accurate, if there are any inconsistencies with applicable laws or regulations, those laws and regulations would take precedence.*

## TENANTS SHOULD:

- Always pay the rent on time. Remember, rent is due on the first of the month (generally rent is due on the first of each month, however the tenant is bound by the date stipulated in the lease) and it is late on the second. The tenant can be sued any time after the first. Not paying their rent on time constitutes a breach of lease and can result in a negative rental history. In tight rental market, landlords can be more selective and may use this information as a basis not to renew the tenant's lease at its expiration.
- Always request a written receipt for rent payments and maintain a record of those payments. If the tenant is sued by the landlord, they should always attend the court hearing, even if the rent has been paid. Sometimes the landlord fails to notify the Court that the rent has been paid and the court could enter a judgment against the tenant if they are not present.
- Try to maintain a good rental payment history. CoreLogic Safe Rent (formerly the Registry), a service used by an increasing number of landlords, specializes in collecting and reporting rental information about tenants. CoreLogic Safe Rent regularly collects information regarding Landlord-Tenant court filings. This information goes on a tenant's record just as poor payment history on credit cards or loans are reported to the credit bureaus. This information stays on a tenant's record for seven years. Landlords who use CoreLogic Safe Rent to screen tenants will take this information into account. Having a negative rental history can make it difficult for a tenant to obtain housing.

Tenants who are renting rooms have the same basic rights as tenants renting apartments or houses. For more information about room rentals, see OLTA's

**Room Rentals brochure:** [www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)

## LANDLORDS SHOULD:

- Screen tenants carefully before signing a lease. CoreLogic Safe Rent provides comprehensive reports regarding an applicant's credit and rental history. Landlords who are currently licensed by the Department's Licensing and Registration Unit can receive reports from CoreLogic Safe Rent at a minimal cost.
- Discuss with prospective tenants any concerns you have regarding information contained in a prospective tenant's credit report.
- Keep accurate rental records.
- Do not let tenants get too far behind in their rent before you file suit for Failure to Pay Rent. Even if the Court gives a judgment in favor of the landlord for rent and late fees owed, collection of a judgment can be time consuming and costly. Taking quick action will reduce a landlord's potential exposure for unpaid rent.

## EMERGENCY RESOURCES

The services listed below are available to assist tenants who find themselves in a financial crisis. The County, in conjunction with several community-based charitable organizations and non-profits, work together to provide assistance to those in need. These services include emergency financial assistance and/or shelter for families or adults who are homeless or at high risk of losing their housing, victims of individual or community disaster, or persons stranded away from home. Financial assistance may be available to assist tenants with security deposits, past due rent, past due utilities, moving or storage costs, and emergency shelter. If a tenant receives a Failure to Pay Rent notice, they may be eligible to receive financial assistance. A tenant may call one of the following numbers to ask about the County's emergency assistance programs:

|  |              |
|--|--------------|
| <b>Crisis Hotline</b><br>(24 hours, after hours shelter referral)                  | 240-777-4000 |
| <b>Montgomery County Information Line</b>  | 240-777-0311 |
| <b>Germantown Crisis Intervention</b><br>12900 Middlebrook Road, Germantown, MD    | 240-777-4448 |
| <b>Rockville Crisis Intervention</b><br>1301 Piccard Drive, Rockville, MD          | 240-777-4550 |
| <b>Silver Spring Crisis Intervention</b><br>8818 Georgia Avenue, Silver Spring, MD | 240-777-3075 |

## LEGAL SERVICES

In addition to the services listed above, there are some low or no cost legal services available to assist you:

|   |                |
|---|----------------|
| <b>Legal Aide Bureau Inc</b>  | 1-888-465-2468 |
| <b>Pro Bono Clinic</b><br>(Montgomery Co. Bar Assn.)  | 301-424-7651   |
| <b>Homeless Persons Representation Project</b>  | 410-387-3126   |
| <b>Lawyer Referral</b><br>(Montgomery Co. Bar Assn.)  | 301-279-9100   |
| <b>District Court Help Center</b><br><a href="http://www.mdcourts.gov/selfhelp">www.mdcourts.gov/selfhelp</a> | 410 260-1392   |

## EVICTIION PROCESS

The following sequence of events takes place when a landlord files a failure to pay rent action in the District Court:

### INITIATING AN EVICTION FOR FAILURE TO PAY RENT

#### Landlord:

- Must give tenant a Notice of Summary Ejectment at least 10 days prior to filing for Failure to Pay Rent
- Files a *Failure to Pay Rent* action in the District Court of Maryland (form DC-CV-082)
- States the amount of rent due, including late fees and any court awarded costs
- Requests a judgment for repossession of the property and/or payment of rent due
- Must certify that the property is currently registered with Maryland Department of the Environment's Lead Rental Registry (for properties built prior to 1978) and give the certificate number
- Must also certify whether the tenant(s) is/are in active military service (DOD website: [www.scra.dmdc.osd.mil/scra/#/home](http://www.scra.dmdc.osd.mil/scra/#/home))
- Must provide a current rental facility license number from DHCA

### SCHEDULING A HEARING AND ISSUING A SUMMONS

#### District Court:

- Court clerk schedules a hearing and issues the tenant a summons to appear in court which is forwarded to the Sheriff's Office for service

#### Sheriff:

- Mails one copy of the summons to the tenant by first class mail and attempts to serve the tenant in person
- If the tenant is not available to be served, a copy of the summons is posted on the door of the rental property

#### Tenant and Landlord:

- If the tenant appears in District Court, they have the right to present a defense
- The landlord may request prior to trial, ALL rents due as of the hearing date, including any late fees and court awarded costs. This request must be made on the Failure to Pay Rent Summons
- If the tenant fails to appear, the Court will likely award a default judgment for the landlord to repossess the rental property
- If the landlord or agent fails to appear, the Court will likely dismiss the action
- If either party disagrees, they have the right to appeal the judgment to the Circuit Court within four days of the judge's ruling

# EVICTIION PROCESS

## SCHEDULING AN EVICTION

### Landlord:

- If no appeal is filed, the landlord files a Warrant of Restitution which is signed by the judge and forwarded to the Sheriff's Office
- On receipt of the Warrant of Restitution from the clerk, the landlord contacts the Sheriff to arrange a date and time for the eviction

### Court Clerk:

- Mails a copy of the Warrant of Restitution to the tenant, the Landlord and the Sheriff's Office by the Court clerk

### Sheriff:

- Once the eviction is scheduled, the Sheriff may post a red and white notice on the door of the rental property. However, even if such a notice is not posted, the Sheriff will still proceed with the eviction

### Tenant:

- If a tenant receives a Warrant of Restitution, they can call the Sheriff's office (240-777-7130) to see whether an eviction has been scheduled. The Sheriff **will not** provide the specific date and time

## EXECUTING AN EVICTION ORDER

### Sheriff:

- The Sheriff must be present for an eviction

### Landlord:

- The Landlord is responsible for removing the tenant's possessions from the property and placing them in the closest public right of way

### Tenant:

- Tenant can prevent an eviction in most cases by paying the judgment before the Sheriff executes the eviction order
- This payment must be made by cash, certified check or money order to the landlord or his agent (including all court awarded costs, with the exception of court awarded attorney's fees)
- The tenant needs to get a receipt and confirm with the Sheriff's Office that the landlord has canceled the eviction

## MULTIPLE JUDGMENTS:

### Tenant:

- May be evicted the first time the landlord files an action for nonpayment of rent against them if the tenant does not pay when, or before, the Sheriff arrives to carry out the eviction

### Landlord:

- If three judgments for unpaid rent have been entered against a tenant in the 12 months and the tenant has paid the debt and redeemed the property, on the fourth filing, the landlord can request a Judgment Absolute, With No Right of Redemption

### Tenant and Landlord:

- **If a Judgment Absolute is entered, payment of overdue rent will not prevent an eviction**

## OTHER COURT ACTIONS:

### Breach of Lease

Filed when there is a significant violation of the lease terms. A tenant should correct the breach if possible and document it so they can prove to the Judge it has been done. Follows the same process as Failure to Pay Rent with the following exceptions:

- Appeal period is 10 days; and
- Payment of overdue rent will not prevent an eviction

### Tenant Holding Over

Tenant who unlawfully remains in the rental property after receiving or issuing a notice to vacate. If the landlord files a Tenant Holding Over action against a tenant after giving proper notice to vacate or a tenant has given the landlord notice to vacate and has not moved, it will be very difficult for the tenant to prevail. If a tenant believes that a notice to vacate was issued in retaliation because they filed a complaint with the County or had some disagreement with management, the tenant must have documentation or witnesses, present in court, to prove their allegations. Filing a complaint with Landlord-Tenant Affairs in these instances will allow our staff to work with the landlord and tenant to mediate the dispute.

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- Appeal period is 10 days; and
- Payment of overdue rent will not prevent an eviction