

# Eviction Process

Honorable Sandra Tristano  
Circuit Court of Cook County  
District 3, 2121 Euclid Ave.,  
Rolling Meadows, Room 206

# The Lease



# The Lease

1. Clear and Definite Terms
2. Lease Time Period, Amount of Rent, Security Deposit, When payable; *NO CONTRADICTIONS!!*
3. Signed by all Responsible Parties, including Guarantors
4. Give Tenant a Copy of Signed Lease
5. Give Tenant receipts for cash payments

# Lease Termination

- Failure to Pay Rent -- Most Cases
- When is Rent Due? Grace Period?
- Five-Day Notice to Pay Overdue Rent



# Five-Day Notice

- Purpose: to inform tenant of exact amount of overdue rent, and allow five days from service of notice for tenant to pay. Do not include late charges, utilities, etc.
- 5-day is jurisdictional! CANNOT proceed to court eviction for nonpayment without it!



# Five-Day Notice

- Form of Notice: suggest using commercially-available Illinois legal forms for required legal language – see *735 ILCS 5/9-209*
- Proof of Service: Notarized statement that notice was served by Landlord or Agent:  
1) on Tenant personally, 2) by substitute service on Resident of unit over age 13; 3) by certified or registered mail, returned receipt signed by Addressee; *OR* 4) by posting on the door, *if no one in actual possession.* – see *735 ILCS 5/9-211 + 9-212*
- Once served, Tenant must be allowed to pay within the five days

# Other Notices to Quit

- *Ten-day Notice* for other types of lease violations besides nonpayment; such as: noise/pet violations; damage to premises
- *30-day Notice* to end a Month-to-Month tenancy or any term less than a year, but greater than a week
- *7-day Notice* to end Week-to-Week
- Same Service + Proof of Service as 5-day

# Filing the Lawsuit

- Wait one day after expiration of Notice to Quit (i.e., with 5-day notice, add one = file on Day 7)
- Use Clerk of the Circuit Court forms for 1) Summons and 2) Complaint. Available in Room 121, Rolling Meadows Courthouse, or on-line at: [www.cookcountyclerkofcourt.org](http://www.cookcountyclerkofcourt.org). *Complaint - Joint Action* (CCM N020); *Complaint for Possession Only* (CCM N021); *Summons for Trial (Forcible)* (CCM N081); *Order – Possession* (CCM N114)



# Filing the Lawsuit

- Filing Fees: \$237 for Rent < \$15,000;  
\$432 for Rent > \$15,000
- Sheriff's Service Fees: \$60 for each named defendant and unknowns
- Importance of naming "Unknowns" in your complaint!!

# Service of Process

- Service of Summons and Complaint in Cook County is usually attempted at least once by Cook County Sheriff
- Judge may approve appointment of a *Special Process Server for Alias Summons*, if Sheriff was unsuccessful. Landlord pays fees, usually \$60 - \$200 and up, depending on difficulty in serving

# Jurisdiction

- *Money or Possession, or both?*
- Service on Tenant by Sheriff or Process Server allows Court to enter judgments for *both* money owed and possession
- If efforts to serve are unsuccessful after diligent attempts, Court may approve Posting by Sheriff (NOT by Landlord!)
- Posting allows Possession Order *only*
- Caution on Posting: Don't attempt too early!  
Must try diligently to serve the Tenant

# Court Appearance

- Clerk's Office sets first date for a Thursday morning in Courtroom 204, 205 or 206, Rolling Meadows, 14 – 40 days after Summons issues
- If Tenant served and present, Judge will direct parties to talk outside courtroom and try to settle
- If no settlement, case will proceed to trial that day; *unless* the Judge grants *one* continuance



# Trial

- **BE READY!!** Organize exhibits before stepping up before Judge, including:  
Original Lease and Amendments,  
Landlord's 5-day Notice or other Notice to Quit *with* Proof of Service, Ledger and/or Receipt Book showing amounts owed and paid, other bills owed (e.g., utilities), any photos (not necessary + not too many), list of court costs and service fees

# Defenses

- Paid (or attempted to pay) within five days
- Landlord insists on cash and won't give receipts. Rent was paid.
- Uninhabitable Conditions – How Bad?  
Set-Off or Complete Defense?
- Landlord broke the Covenant of Quiet Enjoyment

# Judgment Order

- *Pro Se* parties who prevail complete their own orders for Judge to sign, Clerk will assist
- Orders are in the Courtrooms, at the Clerk's office and on-line
- *BE CAREFUL AND PRECISE!!* e.g., unit number, "Unknowns" and names of all defendants, or risk Sheriff rejecting Order, see *735 ILCS 5/9-107.5*

# Executing the Judgment

- Court Order of Possession *usually* gives a one-week “stay” date if Defendant did not appear (i.e., default judgment) or two-week stay date if Defendant did appear and trial held
- After stay date expires, if Tenant still in possession, Landlord must place the Order of Possession with the Sheriff’s Eviction Unit, Room 701 in the Daley Center, 50 W. Washington St, Chicago; 312-603-3365
- LANDLORD CANNOT TAKE POSSESSION HIMSELF/HERSELF!! i.e., can’t change locks or enter unit to take possession



# Sheriff's Eviction Procedures

- Refer to [www.cookcountysheriff.org](http://www.cookcountysheriff.org).
- Filing fee \$60.50 to the Sheriff, and \$18 for two certified copies of the Order from Clerk's Office.
- All changes, additions or deletions on the Order must be initialed by the Judge
- Complete an Eviction Disclosure Form
- Sheriff's office will call Landlord or Agent one working day prior to eviction. Scheduling information is available on-line
- Landlord or Agent must be present at the eviction, or it will be cancelled.

# Sheriff's Procedures

- Orders of Possession are valid for 90 days after entry of Court Order. If the time lapses before Landlord places the Order with the Sheriff, or the Sheriff is backed up on executing Orders, Landlord must motion the Court for an extension, and give the statutory notice to the tenant found at *735 ILCS 5/9-117*
- *Be Careful about Reinstating Tenancy!!*

# Avoiding Litigation



# Avoiding Litigation

- Tenant Credit Check
- Negotiate catch-up Payment Plan
- Keep Unit in Good Repair and Perform all Landlord Duties, to avoid rent “set-off”
- Negotiate Early Termination of Lease to regain possession voluntarily and quickly vs. litigation delays and likelihood of collection on judgment

# Other Areas of Interest

- Security Deposits – *NOT* for “Normal Wear and Tear,” i.e., cleaning unit before next tenant; minor repairs
- Former tenants often sue for return of security deposits. Cases are heard in Courtroom 206, Friday mornings. Mediations are required. Be open to settlement
- Security Deposit Return Act (*765 ILCS 710*)

# Resources

- <http://rollingmeadows.illinoislegalaid.org>. Self-help center Tues/Thurs a.m., Rm 36; on-line 24 hrs. Many helpful articles and links to forms
- Northwest Suburban Bar Association help desk staffed by volunteer attorneys; Fri pm's, Rm 206
- <http://cookcountycourt.org>. Click Evictions
- <http://www.ilga.gov>. Governing laws
- <http://cookcountyclerkofcourt.org>. Forms + fees
- <http://cookcountysheriff.org>. Serve process, schedule evictions

# Be a Good Landlord







