

# **F.E.D (Eviction)**

## **GENERAL INFORMATION**

### **PURPOSE OF THE PROCESS**

The action is for the possession of the property only. However, the judge will listen to other limited issues if they are raised by the tenant as a defense to the action for possession. The court will not give the landlord a judgment for monies owed. A landlord must file a separate small claims action to be awarded a judgment of money or to process other non-possession claims.

### **NOTICE (Copy of Notice Served Must Accompany Complaint When Filing)**

Prior to seeking assistance from the court, the landlord must serve proper written notice. If the tenant is required by the notice to do something (pay rent for example) or to quit doing something (loud music for example) the landlord cannot obtain assistance from the court unless a tenant does not comply with the notice. In the case of failure to pay rent, the rent must be 7 or more days past due before notice can be given. If the tenant does not comply with the notice within the required time, a complaint can be filed with the court. If the landlord accepts a partial rent payment, the original notice may no longer be effective.

### **FIRST APPEARANCE**

The first appearance in court will be scheduled approximately 8-15 days after the landlord files the complaint and pays the fees. At the first appearance the court will gather information from both the tenant and the landlord to determine if a hearing should be held. If the tenant fails to appear at the first appearance, a default judgment will be entered in favor of the landlord for possession of the premises and costs. If the tenant appears and the landlord does not, the case will be dismissed. If both parties fail to appear, the case will be dismissed.

### **ANSWER**

If a trial is ordered, the tenant must file an answer immediately after the first appearance. The tenant must pay an answer filing fee immediately after the first appearance. The landlord must pay a trial fee immediately after the first appearance. Answer forms are available from the Court.

### **TRIAL**

A trial will be scheduled for a date within 15 days of the first appearance unless the landlord agrees to set it for a later date. At the hearing the landlord must show the court why the landlord should be given possession of the property. The tenant may also offer evidence to show why the landlord should not be given possession. After hearing the evidence from the parties present, the judge will make a ruling.

### **ENFORCING JUDGMENT**

If a judgment for possession is ordered by the court, the landlord can enforce the judgment by having the court issue a Notice of Restitution and paying appropriate fees to the court and the sheriff's office. The notice is served on the tenant and gives the tenant four days, not counting the day it was served, to move from the premises. If the tenant does not move, the landlord must return to the court to request a Writ of Execution and pay a fee to the sheriff's office for service.

### **SHERIFF'S EXECUTION of WRIT OF EXECUTION**

The landlord needs to contact the sheriff's office to arrange the service of the writ of execution, physically remove the tenant and turn the property over to the landlord.

### **STORAGE OF TENANT PROPERTY**

Once the tenant is removed the landlord may change the locks and must store the tenant's remaining belongings. The landlord must issue proper notice of the tenant's rights to the tenant. The notice required is not a form available from the court.

*Legal forms of any notice are not available from the court.  
The court cannot give legal advice.*