

EVICTIIONS

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The successful landlord has done everything they could to avoid the eviction but, alas, it is now unavoidable because the tenant will not volunteer to give up possession and all "catch-up" promises have been broken.

Step 1: Paperwork: Be prepared to go to the court house with the proper paperwork:

A. The Complaint

- i. For possession only following termination
- ii. For possession only failure to cure
- iii. For possession only failure to pay rent
- iv. For possession and money

B. Attached to the complaint:

- i. Copy of lease
- ii. Copy of the proper notice
 - a. 3 days notice for failure to pay rent
 - b. Notice of Termination (mo. to mo)
 - c. 7 days notice to cure
 - d. 7 days notice of termination (non curable)
- iii. Copy of rent log (if evicting for nonpayment)
(Suggested-Not mandatory)

C. Separate From The Complaint:

- i. Non-Military Affidavit
- ii. Stamped Envelope (large) addressed to tenant. If more than one tenant submit one envelope/tenant.
- iii. Letter to Sheriff (see form)
 - a. Staple sheriff's check to letter
 - b. Attach map to rental house
- iv. Two Stamped envelopes addressed to you.
 - 1: The clerk sends you copy of summons
 - 2: The Sheriff sends you proof of service

D. Checks

- i. To Clerk of Court \$185 plus \$10/tenant
If it is a two count complaint you must pay the clerk of court \$185 plus \$20/tenant
- ii. To Sheriff of Volusia \$40/tenant

When you file your paperwork ask the Clerk of Court to look at your papers to see if you have any obvious mistakes or if there is anything missing.

Then you wait.

The Sheriff will serve your paperwork and mail you an affidavit of service. This will show the exact date the sheriff served the paperwork.

Mark you calendar for the 6th business day following the date of service. Do not count the day of service or Sat. Sun. or legal holidays.

On the 6th business day File:

1. Motion For Default (see form)
2. Default (see form)
Original and 2 copies with 2 SASE
3. Motion For Entry Of Judgment For Possession (see form)
with 2 SASE
The Clerk will prepare the Judgment For Possession
4. Request For Writ of Possession (see form)
5. Letter To Sheriff to serve Writ of Possession (see form)
6. Check to Sheriff for service of writ of possession.
Currently \$90 total no matter how many tenants.

The clerk will enter the writ of possession as soon as the clerk receives the Judgment for Possession signed by the Judge.

The clerk will attach the Writ of Possession to your letter to the Sheriff (with check stapled to the letter) and the next thing you hear will be a phone call from the Sheriff's Deputy to arrange a time to put you into possession.

Eviction Forms And Letters

Complaint For Eviction After Termination Of Lease

Complaint For Eviction For Failure To Comply

Complaint For Eviction For Non-Payment Of Rent

Complaint For Eviction And Count II For Money Damages

Non-Military Affidavit

Letter To Sheriff Re: Service Of Eviction Papers

Motion For Default

Default

Motion For Entry For Judgment For Possession

Letter To Clerk Re: Request For Writ Of Possession

Letter To Sheriff Re: Service Of Writ Of Possession

Clerk Of Court Information

IN THE COUNTY COURT, CIVIL DIVISION
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NUMBER: _____
DIVISION: _____

NAME OF PLAINTIFF

VS

NAME OF DEFENDANT(S)

COMPLAINT FOR EVICTION AFTER
TERMINATION OF LEASE

The Plaintiff, _____ sues the tenant(s) _____
and states:

1. This is an action for the recovery of possession of real property located
at: _____ in Volusia County, Florida.
2. The Plaintiff and Defendant(s) entered into a written/oral agreement
for the rental of the described property on a month to month basis with
the rent being payable on the _____ day of the month.
3. The Plaintiff delivered a NOTICE OF TERMINATION of lease on the
_____ day of _____ 20____. See copy attached hereto.
4. The Defendant(s) refuse to relinquish possession of the property and
are now hold-over tenants.
5. Plaintiff is entitled to immediate possession and court costs.

WHEREFORE, Plaintiff demands judgment for possession and court costs.

Name, Address and Tel. Landlord

IN THE COUNTY COURT, CIVIL DIVISION
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO: _____
JUDGE: _____

Plaintiff(s),

-VS-

Defendant(s).

COMPLAINT FOR EVICTION FOR FAILURE
TO COMPLY WITH LEASE
(other than failure to pay rent)

Plaintiff(s) sues Defendant(s) and alleges:

1. This is an action to evict a tenant from real property, located at _____,
Volusia County, Florida.
2. Defendant has possession of the property under a/an (oral/written) agreement to pay rent of \$ _____ payable _____ (Insert term of rental payments, i.e., weekly, monthly, etc.) A copy of the written agreement, if any, is attached as Exhibit ().
3. Plaintiff served Defendant with a notice on _____, _____ giving (Insert date of Notice) written notice to the Defendant that the Defendant was in violation of his rental agreement. Said violation being:

_____.
A copy of said notice, setting forth the violations of the rental agreement, is attached hereto as Exhibit ().
4. Defendant has failed to correct or discontinue the conduct as set forth in the notice.

WHEREFORE, Plaintiff demands judgment for possession of the property against Defendant.

Landlord's Name and Signature
Address: _____

Tel. No. _____

*IN THE COUNTY COURT, CIVIL DIVISION
In and For Volusia County, Florida*

Case No.
Judge:

Plaintiff,

Vs.

Defendant.

**COMPLAINT FOR EVICTION OF TENANT
FOR NON-PAYMENT OF RENT**

1. This is an action to evict a tenant from the following described real property, located at _____ in Volusia County, Florida.

_____ (a) The Defendant owns and occupies a mobile home located on real property owned by the Plaintiff:

_____ (1) Plaintiff's property is a mobile home park with more than ten (10) spaces.

_____ (2) Plaintiff's property is a mobile home park with less than ten (10) spaces.

_____ (b) The Defendant occupies a mobile home owned by the Plaintiff and located on real property owned by the Plaintiff.

_____ (c) The Defendant occupies an apartment or residential home owned by the Plaintiff.

_____ (d) The Defendant occupies commercial property owned by the Plaintiff.

2. The Plaintiff is landlord of, and the Defendant as tenant, has possession of said property under (oral/written) agreement to pay \$ _____ rent each _____ on the _____ day of each _____ a copy of any written agreement being annexed hereto.

3. On _____ rent in the amount of \$ _____ was past due and unpaid by Defendant.

4. Plaintiff served Defendant with a written notice on _____, to pay the past due rent, or deliver to Plaintiff, but Defendant refuse to do either, a copy of said notice is attached hereto.

WHEREFORE Plaintiff demands Judgment for Possession of the property, and costs of this action.

Name, Address, Tel # of Landlord

IN THE COUNTY COURT, CIVIL DIVISION
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO.: _____

JUDGE: _____

Plaintiff(s),

-VS-

Defendant(s).

COMPLAINT FOR EVICTION OF TENANT
FOR NON-PAYMENT OF RENT
Count One

1. This is an action to evict a tenant from the following described real property, located at _____, in Volusia County, Florida.
____ (a) The Defendant owns and occupies a mobile home located on real property owned by the Plaintiff;
____ (1) Plaintiff's property is a mobile home park with more than ten (10) spaces.
____ (2) Plaintiff's property is mobile home park with less than ten (10) spaces.
____ (b) The Defendant occupies a mobile home owned by the Plaintiff and located on real property owned by the Plaintiff.
____ (c) The Defendant occupies an apartment or residential home owned by the Plaintiff.
____ (d) The Defendant occupies commercial property owned by the Plaintiff.
2. The Plaintiff(s) are landlord(s) of, and the Defendant(s) as tenant(s) has/have possession of said property under (oral/written*) agreement to pay \$ _____ rent each _____ (month, week, etc.) on the _____ day of each _____ (month, week, etc.), a copy of any written agreement being annexed hereto.
3. On _____, _____ rent in the amount of \$ _____ was past due and unpaid by the Defendant(s).
4. Plaintiff(s) served Defendant(s) with a written notice** on _____, _____, to pay the past due rent, or deliver to Plaintiff(s), but Defendant(s) refuse to do either, a copy of said notice is attached hereto.

Count II

5. Plaintiff(s) reiterates and realleges Paragraphs 1,2, and 3 of Count I.
6. The Defendant(s) owes the Plaintiff(s) rent in the amount of \$ _____.

Wherefore, Plaintiff(s) demand(s) judgment for possession of the property, and damages in the amount of \$ _____, and costs of this action.

* Attach copy of written instrument

** Attach copy of written notice

Landlord's Name and Signature

Address: _____

Tel. No. _____

IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO.: _____

DIVISION: _____

Plaintiff(s),

vs.

Defendant(s) /

NON-MILITARY AFFIDAVIT

I, _____, being sworn, certify that the following information is true:
[V all that apply]

_____ I know of my own personal knowledge that Defendants are not on active duty in the armed services of the United States.

_____ I have inquired of the armed services of the United States and the U. S. Public Health Service to determine whether the Respondent is a member of the armed services and am attaching certificates stating that Defendant(s) is not now in the armed services.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Signature of Plaintiff(s)

Printed Name _____

Address: _____

City, State, Zip _____

Telephone No.: _____

Fax No.: _____

Sworn to and subscribed before me on _____, _____ by the affiant _____
_____, who is personally know to me or produced _____
_____ as identification.

SIGNATURE OF NOTARY PUBLIC

Printed Name of Notary Public:

Commission Expires:

Commission #:

DIANE M. MATOUSEK

CLERK OF THE CIRCUIT COURT

By: _____

Deputy Clerk

To: Sheriff Of Volusia County

Re: Service Of Eviction Papers

Sheriff:

Enclosed are the eviction papers to be served on
the tenants at:

Address of Rental Property

The tenant(s) can usually be found at the rental premises
at:

Day and Time Tenant is Likely Home

The tenant works at:

Tenants Work Address and Hours

Attached to this letter is a map to the rental unit and
my check to pay for service is stapled to this letter.

Date Filed With Clerk

Name, Address, Tel of Landlord

IN THE COUNTY COURT, CIVIL DIVISION
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NUMBER: _____
DIVISION: _____

NAME OF PLAINTIFF

VS

NAME OF DEFENDANT(S)

MOTION FOR DEFAULT

The PLAINTIFF moves for the entry of a DEFAULT against the Defendant(S) due to: (Check one or more)

_____ Failure to file an answer disputing the allegations of the complaint.

_____ Failure to pay the disputed rent into the court registry.

_____ Failure to pay to the clerk the rent that has accrued during the pendency of this proceeding.

_____ Failure to attach a documents to show that the rent as alleged in the complaint is in error.

WHEREFORE the plaintiff moves for an immediate DEFAULT.

Name, Address and Tel. Landlord

IN THE COUNTY COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO.:
JUDGE

Plaintiff,

vs.

Defendant(s).

DEFAULT

A DEFAULT is entered in this action against the DEFENDANT(S) for the following reason:

_____ The Defendant(s) has/have failed to serve a written Answer to said Complaint within five days after service of Summons.

_____ The Defendant(s) has/have failed to pay into the Registry of the County Court the accrued rent as alleged in the Complaint and has/have not interposed a defense to this action that the payment of rent has been made to the Plaintiff.

_____ The Defendant(s) has/have failed to pay the rent that accrued during the pendency of these proceedings when it was due.

_____ The Defendant(s) has/have filed a Motion to Determine Rent, but failed to attach documentation in support of the allegation that the rent as alleged in the Complaint is in error, pursuant to Florida Statutes (83.60(2)).

DATED this _____ day of _____, 20_____.

Clerk of the Court
Volusia County, Florida

By: _____
Deputy Clerk

IN THE COUNTY COURT, CIVIL DIVISION
IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NUMBER: _____
DIVISION: _____

NAME OF PLAINTIFF

VS

NAME OF DEFENDANT(S)

MOTION FOR ENTRY OF
JUDGMENT FOR POSSESSION

The PLAINTIFF moves for the entry of a DEFAULT JUDGMENT
against the DEFENDANT(S) due to: (Check one or more)

_____ Failure to file an answer disputing the allegations of
the complaint.

_____ Failure to pay the disputed rent into the court
registry.

_____ Failure to pay to the clerk the rent that has accrued
during the pendency of this proceeding.

_____ Failure to attach a documents to show that the rent
as alleged in the complaint is in error.

WHEREFORE the plaintiff moves for a JUDGMENT FOR POSSESSION.

Name, Address and Tel. Landlord

To: Clerk of Court Volusia County

Request For WRIT OF POSSESSION

Upon your receipt of the Judgment For Possession please
immediately issue a WRIT OF POSSESSION and send it
to the Sheriff with the letter and check for the sheriff.

Thank you.

Date Filed With Clerk

Name, Address, Tel of Landlord

To: Sheriff Of Volusia County

Re: Service Of WRIT OF POSSESSION

Sheriff:

Accompanying this letter will be the Writ Of Possession issued by the Clerk of Court. Please serve the WRIT to:

Address of Rental Property

Attached to this letter is a map to the rental unit and my check to pay for service is stapled to this letter.

Date Filed With Clerk

Name, Address, Tel of Landlord