

THE EVICTION PROCESS

Step 1: Determine Cause for the Eviction

- Tenant has failed to pay rent
- Tenant has violated a term of the lease
- Tenant refuses to leave the rental after the end of the lease, or
- No cause, if there is no lease.

Step 2: Landlord Gives the Tenant a “Demand for Compliance or Right to Possession” or “3-day Notice”

- The 3-day Notice states that the tenant must “cure” or fix the lease violation or vacate the property within 3 days, not including weekends or holidays. The 3-day notice must be a written demand but it does not have to be a formal legal document.
- If the tenant pays the rent or fixes the lease violation in the 3-day period the landlord must accept it and cannot evict the tenant. If the tenant fails to pay or does not give up possession of the rental then the tenant is subject to eviction.

Step 3— Eviction or Forced Entry and Detainer (“FED”) Action in Court.

- If the tenant does not pay the rent, cure the lease violation, or move out in 3 days, then the landlord may proceed to court and file a Forced Entry and Detainer (“FED”) action. The landlord may file without the assistance of an attorney or seek legal assistance.
- **Complete and file a “Complaint in Forcible Entry and Detainer” or “Summons”**
This can be obtained at the Boulder County Courthouses in Longmont or Boulder. The Court Clerk will set the case for a “return date” or court date between 5 and 10 days from the filing.

Serve Tenant with the Complaint and Summons by:

- ◆ Personal service; may be done by the Sheriff’s Department, a private process server, or someone over the age of 18 who is not involved in the case. Make sure that the Return of Service portion of the Summons is completed by the individual doing the service
- ◆ Service by posting and mailing; Post the Complaint and Summons in a conspicuous place and then mail them to the tenant the next day. Be sure that the Return of Service portion of the Summons is completed.

Go to Court on the Return Date

It is important that both the landlord and the tenant appear in Court. If the tenant does not appear, and the landlord can prove to the Court that the lease has been violated, the Court can, and most likely will, enter the eviction order without him or her present.

*** *The eviction process for mobile home parks differs from the information provided here. To obtain information on this process, please call Community & Neighborhood Resources at 303-651-8444.* ***

CONSIDER MEDIATION...

At any point throughout the eviction process, a landlord and tenant can choose to utilize mediation services to attempt a resolution. Mediation is often more efficient and less expensive than litigation and allows parties to craft their own agreement.

To find out more about how mediation may be an option for your situation, call the Longmont Mediation Program at 303-651-8444.

Both the landlord and tenant should go to Court prepared on the return date with all necessary paperwork (for example: Complaint, Summons, 3-day Notice, Return of Service, Answer, lease, and any records of payment or documents supporting the landlord’s reason (s) for eviction or the tenant’s defense (s). Both the landlord and tenant should be ready to explain to the Court in a brief, concise way why the eviction should (landlord) or should not (tenant) be ordered.

Completing and Filing an Answer

The tenant has the right to file an “Answer” before the return date that includes the tenant’s defense (s) for a filing fee of \$41.00 (please check with the Court Clerk for the current filing fee as this is subject to change); file a counterclaim for a filing fee of \$45.00, and, if desired, request a trial by jury by paying the \$75.00 jury demand fee.

Step 4— Possible Court Outcomes

- The Court enters a “Possession Judgment”, also known as a “Writ of Restitution” which is the eviction order. It directs that the tenant must move from the rental within 48 hours. If the tenant is not out in that time then the landlord can contact the Sheriff’s Department to remove the tenant from the rental property. If personal service was obtained, the landlord may be able to get a judgment against the tenant for the money that is owed to the landlord.
- The landlord and tenant work out an agreement. This is called a “Stipulation”.
- If the tenant has filed an Answer, a hearing may be set for a later date and the parties will return to Court.
- The landlord may ask the Court to continue the return date, if he/she feels that more time should be allowed to work out or follow through with an agreement.
- The Court may continue the Court date so that the landlord can properly comply with the procedural requirements.

TYPICAL EVICTION TIMETABLE

DAY	EVENT
-	Nonpayment of Rent
1	Landlord serves tenant with 3-day demand to pay rent or move out
4	Tenant must pay rent owed or move out
5	If tenant does not pay or move, landlord may file an eviction action in County Court and serve tenant with Complaint and Summons
10-15	Tenant may file Answer. Tenant has at least 5 days, but no more than 10 days, to file an Answer. Answer must be filed by return date specified in Summons. Trial date set by Court
10-15	Return Date
12-22	If Judgment for Possession entered, landlord can have sheriff assist tenant from rental if not moved out within 48 hours of time order entered. Actual date depends on appointment made between landlord and sheriff
10-20	If tenant filed Answer, trial may be scheduled within 5 days of Return Date

Adapted from Manual A. Ramos, *Rights and Obligations: Colorado Landlord-Tenant Law* 13 (Continuing Legal Education in Colorado, Inc. 2002).