

This is general legal information, not legal advice about a specific case. If you have questions or want advice about your individual case, please contact legal aid or VPLC at the phone numbers listed below.

Unlawful Eviction Toolkit: What to do if your landlord evicts you without a court order

Your landlord cannot legally cut off your utilities, lock you out of your home, or evict you without taking you to court. You do not have to move out if your landlord tells you to leave or if they file an eviction case (called a “Summons for Unlawful Detainer”) against you. Your landlord *must* wait until they win in court, and then get the local Sheriff’s Department to evict you.

If your landlord cuts off utilities, locks you out of your home, or evicts you without taking you to court, you can take your landlord to court by filing a lawsuit (called a “Tenant’s Petition for Relief from Unlawful Exclusion”) against your landlord.

Where to file: Go to the General District Court in the city or county where your home is located and file a lawsuit called a “Tenant’s Petition for Relief from Unlawful Exclusion (Form DC-431).” A list of General District Courthouses is available at

<http://www.courts.state.va.us/courts/gd.html>

- You can use the form that is attached or ask the clerk for Form DC-431.
- You can file this on your own, by yourself, without an attorney.

How to fill out the form: Fill in the name and physical address of the true owner of the property under “Defendant-Landlord. “The owner might be one or more individuals or a legal entity such as a corporation or limited liability company.

- If you are not sure what the name and physical address of the true owner of the property is, you need to do a real property search. Google “real property search” and add the name of your County or Independent City. For example, “Richmond city real property search” or “Richmond county real property search.”
- If the true owner is not one or more individuals – for example, a corporation or a limited liability company (LLC) – there is one more thing you must do - get the name and physical address of the registered agent of the company. To get this, call the Virginia State Corporation Commission at 804-371-9733 or 866-722-2551 or go on their website (<https://cis.scc.virginia.gov/EntitySearch/Index>) and enter the name of the company where it says “Entity Name” and look for the information for their registered agent under “Registered Agent Information.”
- If your landlord is a legal entity, fill in the name of the company as the Defendant-Landlord, and the name and physical address of their registered agent.
- When you fill out the form, you need to decide what you want the judge to do. You can ask the judge for any of these things: allow you back into the house (i.e.—to recover possession), turn back on your utilities, end the rental agreement, or get back any money you had to spend because you were locked out (i.e.—recover your actual damages) and attorney’s fees if you are represented by an attorney.

Pay the filing fee: To file the case and have the sheriff serve the lawsuit on your landlord will cost about \$58. You can ask the clerk for the exact amount.

- You can get the filing fee waived by asking the clerk for a “Petition for Proceeding in Civil Case without Payment of Fees or Costs” (Form CC-1414) if you can’t afford to pay the fee. But, this may cause a delay in your case.
- You should also send a letter to your landlord to let them know you have filed a lawsuit against them. The letter should contain a copy of your lawsuit.
- Keep a copy of the form you file with the Court for your records.

Setting the court hearing date: After filing your lawsuit, the court sets a hearing date and has the landlord served by a sheriff to make sure they know to come to court.

- If you do not come to court on your trial date, the court will dismiss your case. If you come to court and the other side does not, you should get a judgment in your favor.

Preparing for your case: Before the hearing date, get your evidence together and practice what you want to tell the judge.

- You can also ask the clerk to help you subpoena witnesses who have agreed to come to court.
- Subpoenas cost \$12 each, unless your filing fees were waived.
- Gather evidence, such as a copy of your lease if you have one, text messages or emails with your landlord, receipts, and pictures.

What happens at your court date:

- Arrive at the Courthouse at least 15 minutes early and let the clerk know you are there.
- The judge will call your case. When the case is heard, you present your evidence first.
- The landlord or judge may ask you questions. Then the landlord gets to present evidence and witnesses.
- You can question the landlord about what they said, but don’t argue with them.
- If both sides come to court, the judge will hear both sides and decide who wins.

What to do if your landlord continues to harass you after you file your case: If you feel comfortable doing so, call the police.

- Be prepared to show the police your copy of the “Unlawful Exclusion” lawsuit.
- Call your local legal aid for further help.

If you are facing eviction, if your landlord attempts to lock you out without taking you to court, or if you have questions about your rights, contact your local legal aid by calling 1-866-LEGL-AID or get legal advice from the Eviction Legal Helpline by calling 1-833-NoEvict. Visit VaLegalAid.org for more information.

TENANT'S PETITION FOR RELIEF FROM UNLAWFUL EXCLUSION

Commonwealth of Virginia VA. CODE § 55.1-1243

..... General District Court
CITY OR COUNTY

.....
STREET ADDRESS OF COURT

TO ANY AUTHORIZED OFFICER: You are hereby commanded to summon the Defendant(s).
TO THE DEFENDANT(S): You are summoned to appear before this Court at the above address

on to answer the Plaintiff(s)' civil claim (see below).
RETURN DATE AND TIME

.....
DATE ISSUED [] CLERK [] DEPUTY CLERK [] MAGISTRATE

CLAIM: I, the undersigned Plaintiff-Tenant, this day assert that Plaintiff(s)-Tenant(s) entered into a rental agreement as indicated with Defendant(s)-Landlord(s) for the rental of the premises indicated.

DATE RENTAL AGREEMENT ENTERED INTO	DATE RENTAL PERIOD COMMENCED	DATE RENTAL PERIOD ENDS
ADDRESS/LOCATION OF PREMISES		

I further assert that

- [] the Defendant(s) unlawfully removed or excluded the Plaintiff(s) from the premises, specifically,
- [] the Defendant(s) willfully diminished services to the Plaintiff(s) by interrupting or causing the interruption of an essential service to the Plaintiff(s), specifically,

Plaintiff(s) therefore requests that the court grant the following relief:

- [] allow the Plaintiff(s) to recover possession of the premises;
- [] require the Defendant(s) to resume any interrupted essential service; or
- [] terminate the rental agreement,

and

- [] recover actual damages of,
- [] reasonable attorney fees.

.....
DATE [] PLAINTIFF-TENANT [] PLAINTIFF-TENANT'S ATTORNEY

CASE DISPOSITION Defendant(s) Present? [] YES [] NO

- [] JUDGMENT for Plaintiff(s)
 - [] Recovery of possession of premises.
 - [] Defendant(s) is required to resume the following interrupted essential service:
.....
 - [] Rental agreement is terminated, and the Defendant(s) is ordered to return any security deposit in accordance with § 55.1-1226.
 - [] Actual damages in the amount of,
 - [] Reasonable attorney fees of
- [] JUDGMENT for [] named Defendant(s)-Landlord(s) []
- [] NON-SUIT [] DISMISSED

.....
DATE JUDGE

CASE NO.

PLAINTIFF(S) (LAST NAME, FIRST NAME MIDDLE INITIAL)

.....

.....

.....

.....

.....

v.

DEFENDANT(S) (LAST NAME, FIRST NAME, MIDDLE INITIAL)

.....

.....

.....

TENANT'S PETITION FOR RELIEF FROM UNLAWFUL EXCLUSION

TO DEFENDANT: You are not required to appear; however, if you fail to appear, judgment may be entered against you. See the additional notice on the reverse about requesting a change of trial location.

- [] To dispute this claim, you must appear on the return date to try this case.
- [] To dispute this claim, you must appear on the return date for the judge to set another date for trial.

Bill of Particulars ORDERED DUE

Grounds of Defense ORDERED DUE

ATTORNEY FOR PLAINTIFF(S)
.....

ATTORNEY FOR DEFENDANT(S)
.....

HEARING DATE AND TIME

.....

.....

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.....

.....

JUDGMENT PAID OR SATISFIED PURSUANT TO ATTACHED NOTICE OF SATISFACTION.

DATE
CLERK

DISABILITY ACCOMMODATIONS

for loss of hearing, vision, mobility, etc., contact the court ahead of time.

RETURNS: Each defendant was served according to law, as indicated below, unless not found.

NAME	
.....	
ADDRESS	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No.
Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.	
.....	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> Served on Secretary of the Commonwealth	
<input type="checkbox"/> NOT FOUND SERVING OFFICER
.....	for
DATE	

NAME	
.....	
ADDRESS	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No.
Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.	
.....	
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<input type="checkbox"/> NOT FOUND SERVING OFFICER
.....	for
DATE	

NAME	
.....	
ADDRESS	
.....	
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.....	
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<input type="checkbox"/> Served on Secretary of the Commonwealth	
<input type="checkbox"/> NOT FOUND SERVING OFFICER
.....	for
DATE	

OBJECTION TO VENUE:

To the Defendant(s): If you believe that Plaintiff(s) should have filed this suit in a different city or county, you may file a written request to have the case moved for trial to the general district court of that city or county. To do so, you must do the following:

1. Prepare a written request which contains (a) this court's name, (b) the case number and the "return date" as shown on the other side of this form in the right corner, (c) Plaintiff(s)' name(s) and Defendant(s)' name(s), (d) the phrase "I move to object to venue of this case in this court because" and state the reasons for your objection and also state in which city or county the case should be tried, and (e) your signature and mailing address.
2. File the written request in the clerk's office before the trial date (use the mail at your own risk) or give it to the judge when your case is called on the return date. Also send or deliver a copy to plaintiff.
3. If you mail this request to the court, you will be notified of the judge's decision.

I certify that I mailed a copy of this document to the defendants named therein at the address shown therein on	
.....
DATE	<input type="checkbox"/> Plaintiff
	<input type="checkbox"/> Plaintiff's Atty.
	<input type="checkbox"/> Plaintiff's Agent
.....	
Fi. Fa. issued on	
Interrogatories issued on:	
Garnishment issued on	
.....	