

Eviction Procedure

1. Notice for Non-Payment of Rent

If rent is not paid when due, the landlord must deliver a "NOTICE TO CURE OR QUIT" (Three-Day Notice form) to the tenant. This notice must state that the rent is due but unpaid, and the landlord intends to terminate the Rental Agreement in three (3) days if the rent is not paid. We do have the Three-Day Notice forms in the Sheriff's Office or you can print the form from our site.

2. Notice to Terminate Tenancy for Any Other Reasons

If the landlord wishes to terminate tenancy for any other reason and is not familiar with applicable landlord tenant laws, THEY SHOULD SEEK LEGAL ADVICE.

3. Forcible Entry & Detainer

All notices to terminate must be followed up by serving a FORCIBLE ENTRY NOTICE which is obtained from the Clerk of Court. This sets a court date for the landlord and the tenant to appear in court. The landlord will be requesting an immediate eviction. The landlord must have all copies of previous notices in the court file to have them available to present at court. If the Forcible Entry notice is not served by 12:00 Friday night, we will have to change the hearing date to the next court date.

4. Procedures once Forcible Entry & Detainer has been served

- When the Clerk of Court receives a ruling on a forcible entry and detainer action in the plaintiff's favor, the plaintiff will need to request that the clerk issue a writ of possession to the Sheriff. It will not be done automatically.
- The plaintiff should appear at the Sheriff's Office to fill out directions to the Sheriff Monday through Friday between 8:00 A.M. and 4:30 P.M. except holidays. At this time the plaintiff will disclose the names of those supplying the labor to remove the defendant's possessions. The Sheriff's Office requires enough people to complete the eviction within two hours. If the plaintiff fails to supply enough labor, the eviction will not be started. This will require the plaintiff to set up a new date and time with the Sheriff's Office for the eviction. No action on the writ will commence until the advance fees (as required by the Sheriff's Office and the directions to the Sheriff) are received.
- Upon completion of the above actions, the writ will be assigned to a deputy sheriff. The deputy will call the plaintiff to set up a date and time for the eviction that is compatible with the plaintiff and the Sheriff's Office. The deputy will post a two day courtesy letter at the address given on the writ indicating the day the eviction will take place.
- The plaintiff is required to check the address of the eviction at least one hour before the eviction is to be conducted to see if the defendant has vacated voluntarily. If the plaintiff cancels the eviction, the plaintiff accepts any liability for property left behind by the defendant.
- Except by determination of the Sheriff's Office regarding inclement weather, the only way an eviction will be postponed is at the request of the plaintiff. The only way an eviction will be cancelled is upon request of the plaintiff OR the Sheriff's Office receiving a court order.
- The function of the Sheriff's Office at an eviction is to provide the authority, keep the peace and direct the procedure.

- Evictions will only be conducted during weekdays and daylight hours. The process must be completed by 5:00 P.M.
- Any deviation of the above procedures will have to be cleared by the supervisor of the Sioux County Sheriff's Office Civil Division.
- The Sioux County Health Department's policy is: twenty-four hours after the eviction is completed, the plaintiff has forty-eight hours to dispose of any of the personal property remaining on public property. If the plaintiff fails to complete the disposal, the Streets Department of County Roads Department will dispose of the property to the landfill at the plaintiff's cost.

The above information is provided as an outline of the process only. For legal advice and directions the Plaintiff or Landlord should seek an attorney.