

Eviction Process

One of the most frequently asked about civil procedures is the eviction process. The information contained on this page is for informational use only. For detailed information or legal advice, please contact an attorney, or research the references provided at the end of this article.

Legal eviction in Nebraska must be accomplished through a civil court lawsuit of forcible entry and detainer filed by the plaintiff/landlord versus the tenant that is to be evicted. The Sheriff's Office role in the lawsuit is through the service of three different types of civil process generated by the procedure. Services the Sheriff's Office provides in the eviction process are listed below in their respective order.

1. Notice to Quit

The first step is for a plaintiff/landlord to provide a written notice demanding the tenants vacate the property. The plaintiff will prepare a document referred to as a "notice to quit" and may choose to have the Sheriff's Office serve this writ. There are no statutes that dictate a particular type of service or return day for a notice to quit. The Sheriff's Office policy is to attempt service as soon as practical, and service can be either personal, residential or may be accomplished by posting the notice on the door of the residence. The Sheriff's Office does not provide forms for these notices, nor give advice as to their content. The notice to quit is NOT a court document and does not order removal of the occupants. It is simply a notice for the tenant to vacate the property by a specific date or the case will be taken to the court for eviction. After the service of a notice to quit, should the tenant fail to move, the plaintiff must then commence suit in a court with jurisdiction in order to proceed.

2. Summons of Forcible Entry

A Summons, a notice of the suit, may be sent to the Sheriff's Civil Division for service. The summons contains a time and date for trial and must be returned to the court within 3 days of its issuance. Service of the summons may be personal or residential.

3. Writ of Restitution

If the landlord prevails at trial and is awarded judgement, a Writ of Restitution may be issued. The Writ of Restitution orders the Sheriff to remove the defendant and restore the premises to the plaintiff in the procedure described below. A Writ of Restitution must be executed and returned to court within ten days of issuance. Because of this relatively narrow window, it will be executed without delay. To expedite the process, the plaintiff should provide a contact name and phone number for their representative.

LSO Writ of Restitution service - Eviction Procedures

Unless some other type of action is specified in the Writ of Restitution, service will be executed as follows:

- Deputies will contact the plaintiff, plaintiff's attorney, or authorized agent to set up a time/date for restoring the premises to the plaintiff. The Sheriff's Office requires the plaintiff or their authorized agent to take possession of the premises at the time of the eviction. Should the plaintiff choose to change the locks on the residence, the Sheriff's Office is not obligated to stand by while the residence is being secured.
- Deputies will serve the defendant's copy by personal, residential, or posting. An additional notice from the Sheriff's Office will be served/posted indicating that the resident(s) have a specific time frame to vacate the property.
- By Sheriff's Office policy, three days' notice is given whenever reasonably possible to allow the defendant time to voluntarily vacate the premises and remove their personal property. This time frame also aids the plaintiff from having to dispose of property under the Disposition of Personal Property Landlord and Tenant Act. Generally, the Sheriff's Office will not execute Writs of Restitution at night or on weekends or holidays.
- At the time of the eviction, the deputy will arrive at the location and remove any occupants from the premises, if necessary. Occupants will be advised of trespassing violations they could be subject to if they return. Tenants with personal property remaining in the residence must contact the plaintiff to arrange for removal. Provisions for such are set out in the Disposition of Personal Property Landlord and Tenant Act. Deputies will not take part in the disposal or removal of personal property unless specifically ordered by the court.
- Whenever deputies have removed occupants from a premise, they shall supply the occupant with a short period of time to obtain vital personal effects, or obtain such effects for the occupant. Deputies will take action to protect the person removed, if necessary, due to age, infirmity, mental or emotional condition, illness or disability as provided by law.
- If the premises involved are rental properties such as a house or an apartment, and the premises have been turned over to the plaintiff, the deputy has no further obligation.
- If the Writ of Restitution is for a mobile home owned by the defendant, the mobile home may be levied and set for Sheriff's auction. Keys, if available, for the mobile home will remain with the land owner in the event that emergency entry needs to be made during the time prior to the sale. In the auction sale of mobile homes, a bill of sale issued by the Sheriff only reflects the transfer of the defendant's interest in the property, and is not an implied or actual title to the property. All auctions take place in the exit vestibule of the Justice and Law Enforcement Center, 575 So. 10th Street, Lincoln, NE 68508.

All services by the Sheriff's Office require a prepaid deposit before service will be attempted. Deposits for eviction services are:

\$ 25.00 - Notice to Quit, Summons, or Writ of Restitution within Lincoln city limits

\$ 50.00 - Notice to Quit, Summons, or Writ of Restitution outside Lincoln city limits and within Lancaster County

\$ 150.00 - Writ of Restitution on Mobile Homes Levied for Sheriff's Sale

Statute Information

Following is a list of statutes that are applicable to these proceedings. They are in no way all-inclusive to this subject and are not to be construed as legal advice.

Nebraska Statutes are available at the Nebraska Law Library or online at <http://nebraskalegislature.gov>.

25-21,219 through 25-21,235 : - Forcible entry and detainer

76-1401 through 76-1449 : - Landlord and Tenant Act

76-1450 through 76-14,111 : - Mobile Home Landlord and Tenant Act

69-2301 through 69-2314 : - Disposition of Personal Property Landlord and Tenant Act