Table of Contents

Introduction	1
Notice to Tenant	1
Filing the FED	2
First Appearance in Court	2
Filing an Answer	3
Fees and Costs	3
Trial	3
Judgment	4
Enforcing Judgment of Restitution	4
Further Information	4

Introduction

This booklet has been prepared to help landlords and tenants represent themselves in a residential eviction case (FED) in the Circuit Court of Columbia County. It explains the steps in an eviction and gives information about representing yourself in court. It is **NOT** a complete explanation of landlord-tenant law or evictions. There is a section at the end of this booklet called "Further Information" for additional reference.

CIRCUIT COURT STAFF ARE NOT LAWYERS.
IT IS AGAINST THE LAW FOR THEM TO GIVE LEGAL ADVICE.

A FED is a court action by a landlord against a tenant to remove a tenant from a rented dwelling (house, apartment, mobile home or mobile home space).

FED is an abbreviation for FORCIBLE ENTRY AND UNLAWFUL DETAINER.

In Oregon, all evictions from residential dwellings must be through court. This means that the landlord must first get a court order giving the landlord the right to possession of the dwelling before the tenant can be evicted.

Landlords and tenants may use already prepared Complaint (for the landlord) and Answer (for the tenant) forms in a FED. These forms are available in the Trial Court Administrator's office.

Notice to Tenant

Except in unusual cases, a landlord who wants to evict a tenant must start by giving the tenant some kind of written notice. This notice must be given to the tenant, and the notice period allowed to expire, before the landlord files a FED. It is the responsibility of the landlord to give the tenant the correct written notice. These notices are NOT available from the court. These notices include:

24 hour notice (personal injury)
24 hour notice (substantial damage)
48 hour or 24 hour notice (drug or alcohol program of recovery violation)
24 hour notice (extremely outrageous act)
24 hour notice (unlawful occupant)
24 hour notice (employee termination)
72 hour notice (nonpayment of rent)
144 hour notice (nonpayment of rent)
10 day notice (repeat violation)
10 day or 20 day notice (pet violation)
10 day notice (week to week tenancy)
30 day notice (month to month tenancy)
30 day notice (cause)
Other notice
No notice

Filing the FED

If the tenant does not move out within the notice period (or does not pay the rent), the landlord may file a FED by filling out a Complaint and Summons form. The Complaint form requires that the landlord indicate what kind of notice was given to the tenant. The landlord MUST attach a copy of the notice to the complaint.

At the time of filing, the landlord (plaintiff) must pay a fee of $53.00. Service fees are paid directly to the Columbia County Sheriff.

NOTE: IF THE DEFENDANT FILES AN ANSWER AND THE MATTER IS SET FOR TRIAL, THE PLAINTIFF WILL BE REQUIRED TO PAY A SUPPLEMENTAL FILING FEE OF $60.00. THIS AMOUNT IS DUE AND PAYABLE AFTER THE DEFENDANT FILES THE ANSWER.

First Appearance in Court

The summons served on the tenant will state a certain time for the landlord and tenant to appear in court for a "First Appearance." NO POSTPONEMENTS ARE ALLOWED for either side once the first appearance is set.

At the "First Appearance," the judge will ask the landlord and tenant if they have settled the matter or want to have a trial. Landlords and tenants often settle cases by the tenant agreeing to leave before the case comes to court, by the tenant paying back rent and the landlord agreeing to let them stay, or by agreeing on a date by which the tenant will move.

A tenant who wants a trial should ask for one at the first appearance. The trial will not be held at that time. When the trial is set, both parties will receive a notice in the mail. Both parties may ask the Judge for a continuance or time in which to consult an attorney.

If either the landlord or the tenant does not appear in court at the time of the first appearance, the other side will win by "default." If the landlord does not appear, the FED is dismissed and the landlord may begin by filing a new FED and paying the proper fees again. If the tenant does not appear, the landlord will get a "Judgment of Restitution: and may have the tenant evicted by the sheriff's office.

Filing an Answer

A tenant who wants to have a FED trial should say so at the first appearance. If the tenant is not represented by an attorney, the tenant may use a form called an "Answer". This form is available at the Trial Court Administrator's office. The "Answer" is a legal document that the tenant uses to explain to the court and the landlord why they should not be evicted. These reasons are called *defenses.*

THE COURT STAFF IS NOT ALLOWED TO ADVISE TENANTS ABOUT FILING AN ANSWER IN A FED

Fees and Costs

Both the landlord and the tenant must pay the proper costs or fees. The landlord must pay them when the FED Complaint is filed. The initial filing fee of a FED Complaint is $53.00. If the defendant files an Answer, the landlord will owe a supplemental fee of $60.00 which is due once the Answer has been filed.

The tenant must pay a filing fee of $99.00 at the time of filing an Answer. If the tenant decides they want a court trial, they must pay $77.00 which is due before the date of the trial. If a jury trial is requested, the fee is $110.00 and it is the responsibility of the party requesting the jury trial. It is due before the date of the trial.

If the trial is not held until after 15 days after the First Appearance date, the judge will order rent tendered into court by a certain date. If the defendant fails to tender the rent into court by the date ordered, the trial will be set immediately.

Trial

At the time set for trial, both the landlord and tenant must appear in court and present their cases. There will not be a jury unless either side has requested a jury in writing and has paid the $110 jury fee.

At the time of the trial each side should bring any witnesses they have to testify in person in support of their claim or defense. This allows the other side to ask the witnesses questions. Each side should bring with them any account books, statements, receipts, contracts, dishonored checks, photographs, reports from building inspectors or any other evidence that would support their claim or defense. The judge may decide not to allow certain kinds of written evidence unless the party has a witness who prepared the evidence or who is responsible for keeping it as a business or public record. A PARTY NEEDING LEGAL ADVICE ABOUT EVIDENCE, WITNESSES OR TRIALS SHOULD CONTACT AN ATTORNEY. THE TRIAL COURT ADMINISTRATOR'S OFFICE CANNOT GIVE LEGAL ADVICE ON HOW TO CONDUCT A TRIAL.

At the trial, the plaintiff (landlord) will present his case first. The defendant (tenant) will then have the opportunity to put on their case. The landlord then has a chance to

answer, or rebut, any claims the tenant made.

Judgment

If the judge decides in favor of the tenant, the landlord's eviction action will be dismissed. This means that the tenant still has the right to reside in the dwelling. If the landlord wants to evict the tenant for some other reason, the landlord must begin again. The judge may also require the landlord to pay the tenant for any court costs or fees that the tenant had to pay.

Enforcing the Judgment of Restitution

If the tenant does not move out by the date set in the Judgment, the landlord may go to the Trial Court Administrator's office to apply for a Notice of Restitution ($3.00) which will start the process for having the sheriff evict the tenant. The sheriff will serve the tenant with the Notice of Restitution which informs them that they have 4 days to vacate the premises. If the tenant is not out in 4 days, the landlord may then return to the Trial Court Administrator's office for a Writ of Execution of Judgment of Restitution to evict the tenant. The Trial Court Administrator's office will charge the landlord a fee of $7.00 to file the writ. The landlord should contact the Sheriff's Office for their fee charged for the eviction procedure. The clerk cannot issue a Notice of Restitution or a Writ of Execution of Judgment of Restitution more than 60 days after the judgment is entered or after any date for possession as specified in the judgment, whichever is later (ORS105.159(3)).

Stipulated Agreements

If the parties have stipulated to an agreement that provides for the defendant (tenant) to retain possession of the dwelling contingent upon the tenant's performance or payment of moneys by a certain date, the judge will enter an order staying the execution of the judgment of restitution. If the tenant does not comply with this written agreement, the landlord may file an affidavit explaining the tenant's breach of the agreement and requesting that the stay on the Judgment of Restitution be set aside. The landlord must serve a copy of the affidavit on the tenant. If the tenant disagrees with the allegations, the tenant may ask for a hearing within four days of the filing of the affidavit and notice to the tenant. If the tenant does not respond during that four day period, the judge may set aside the stay and the clerk of the court will issue the Notice of Restitution. If the tenant asks for a hearing, the tenant must provide a written explanation as to why the landlord is not entitled to return of the premises. The judge will decide if a hearing will be set based on the tenant's explanation. **THE ONLY ISSUE AT THE HEARING IS WHETHER THE PARTIES HAVE COMPLIED WITH THE AGREEMENT ENTERED IN THE JUDGMENT.** Failure by the landlord to attend this hearing may result in the writ of execution being withdrawn. Failure of the tenant to attend this hearing may result in the writ of execution being enforced and the tenant removed from the premises.

Further Information

More information about the landlord-tenant law and the eviction process may be obtained from:

Home Builders Association, Multi Family Housing Council, 15555 SW Bangy, Suite 301, Lake Oswego, OR 97034. Phone: 684-1880.

Landlord/Tenant Rights in Oregon, Michael H. Marcus, Self-Help Counsel Press, Inc (2nd Edition, 1980).

Oregon Apartment Association, 4300 NE Broadway, Portland, OR. Phone: 223-3835.

Oregon Revised Statutes: 90.010-91.225; 105.005-105.145. Available at the Law Library, 1st St, St. Helens, OR 97051. Phone: 397-1628.

Tel-Law Tape Library, Oregon State Bar. Phone: 1-800-452-4776.

FED

Forcible Entry and Unlawful Detainer Handbook

State of Oregon
Columbia County

Revised 1/1/07