

Forcible Entry Detainer Eviction Case (FED)

An eviction is a court action by a landlord against a tenant to remove the tenant from a property. The landlord must use established court processes to evict a tenant from property located in Oregon. The landlord in an eviction case is called the plaintiff, while the tenant is the defendant.

Notice to Vacate Property

Initially the landlord must have provided written notice to the tenant to vacate the property by a certain date. Notices to vacate property can be obtained from most office supply or stationary stores. After the specified date to vacate the property has passed and the tenant continues to occupy the property, the landlord may begin the eviction process. Please seek legal advice if you are unsure as to which notice to use.

Eviction Complaint and Summons

A complaint and summons must be filed with the clerk in the Circuit Court in the county where the property is located. The complaint and summons must be signed by the landlord or agent for the landlord. The landlord must have a copy of the original notice to vacate the property that was given to the tenant. Please see our web site: www.courts.oregon.gov/jackson for current fees and forms.

After the complaint and summons are filed with the Court the landlord must have the copies served. The cost for service is determined by the sheriff or a private process server of your choice. If copies are not provided at the time of filing the Court will charge \$.25 per page to make copies. The court will need 2 copies for each named defendant, one to serve each defendant and one to mail to each defendant. The landlord will need to have an additional copy for their record.

A clerk will set the first appearance date between eight and ten days based upon the date of filing the complaint and summons.

First Appearance

If the tenant fails to appear at the first appearance, a **General Judgment** shall be entered in favor of the landlord for possession of the property, the judge may award costs and the prevailing party fee. After the judgment is signed the landlord may request a **Notice of Restitution** of the property. A fee is charged for this notice and service of this notice is required. The tenant will be given notice to vacate the property within four days of posting the notice on the property. If the tenant remains in possession of the property after the expiration of the four days, the landlord may request a **Writ of Execution**. A fee is charged for this writ. The landlord will need to contact the sheriff for service of the writ.

If the tenant appears but the landlord fails to appear the case will be dismissed. If both parties fail to appear the case will be dismissed.

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Mediation

If both parties appear and the tenant wishes to contest the eviction, both parties will be referred to mediation. If the parties sign a mediation agreement the clerk will enter the agreement and a judge will sign the order. If the tenant complies with the mediation agreement the landlord should file a motion to dismiss the case. If the landlord does not file a motion to dismiss the court clerk will dismiss the case one year after the agreement is signed without further notice to the parties.

If the tenant fails to comply with the mediation agreement, the landlord may file an **Affidavit of Non-Compliance**. The judge will sign a **General Judgment** which gives the landlord possession of the property. Once the judgment is signed, the landlord will follow the above steps in regards to a **Notice of Restitution** and a **Writ of Execution** to regain possession of the property.

The tenant may request a hearing on the **Affidavit of Non-Compliance**. The request must be filed with the court before the move-out date on the **Notice of Restitution Non-Compliance** served to the tenant. The court clerk will set a hearing for the judge to decide on the compliance or non-compliance with the mediation agreement. The only issue discussed at the hearing will be if the landlord or the tenant has complied with the agreement. All parties will be notified of the date and time of the hearing.

Trial

If the parties are unable to reach an agreement in mediation or if the parties did not attend mediation and the tenant wishes to contest the eviction, the tenant will be required to file an answer with the clerk. A fee is required. The court clerk will set a time for the trial and notify all parties. If the judge finds in favor of the landlord at the time of trial a **General Judgment** will be signed and the above steps must be followed to regain possession of the property. If the judge finds in favor of the defendant the judge may sign a **General Judgment** against the landlord and in favor of the defendant for costs.

For additional information see Oregon State Legislature at: www.leg.state.or.us or any law library. Landlord tenant laws and property rights are located under chapter 90 and chapter 105. Oregon State Bar www.osbar.org public information tab; legal topic index; tenants & landlords