

**POLK COUNTY COURTS
FORCIBLE ENTRY AND DETAINER (FED/EVICTION) INFORMATION**

What is an F.E.D?

An F.E.D. is a court action by a landlord against a tenant to remove the tenant from a rented dwelling (house, apartment, mobile home space, or floating home).

Must the landlord file an eviction action with the Court?

Yes. Oregon law requires a landlord to file an action for eviction with the Court. It is illegal for a landlord to employ “sel-help” methods to evict a tenant.

If the landlord resides in Polk County but the rented dwelling is in another county, can the landlord still file in Polk County?

No. The action must be filed in the county where the rented dwelling is located.

What if the landlord claims damages to the premises?

A F.E.D. action is solely for the purpose of eviction alone. If any damages or back rent are claimed, the landlord must file a separate civil action.

Is there anything a landlord must do before filing the F.E.D. action?

Yes, the landlord must serve a written notice on the tenant to vacate the premises. The type of notice, and the period of time by which the landlord may demand that the tenant vacate the premises, is specified by statutory law, specifically the Oregon Revised Statutes, Chapter 105.

Is there anything that the tenant can do at this point?

The tenant is strongly advised to talk to an attorney. The court clerks are forbidden by law from giving legal advise.

How does a landord file an F.E.D.?

After delivering notice to the tenant, a landlord can file an F.E.D. action by completing a Complaint form. The complaint form is available at the Court Record’s Counter in Room 301 of the Polk County Courthouse, 850 Main Street, Dallas, Oregon 97338-3178.

After properly completing the complaint and paying the filing fee, a clerk will have the landlord prepare a summons which will be served upon the tenant. The clerk will also see an appearance date and put this date on the complaint and summons.

What if the landlord or tenant do not have the money to pay the filing fees?

If either the landlord or the tenant do not have the financial resources to pay the required filing fees, the clerk at the Court Records counter will provide a motion, affidavit and order for deferral/waiver of fees. Once the landlord or tenant completes the forms, the clerk will present it to the judge to review. If your financial condition merits a deferral/waiver of filing fees, the judge will allow the deferral/waiver. Once the proper forms are completed and approved, the clerk will file the documents.

Are either the landlord or the tenant entitled to a court-appointed attorney?

No.

How is the tenant advised of the F.E.D. actions?

Copies of the complaint and summons will be given back to the landlord for service on the tenant. The Court Records Office will provide a list of private process servers from the local phone book for you to contact to serve the complaint for a fee.

What happens on the appearance date?

If the tenant does not appear for the hearing date, the court will issue a judgment of default in favor of the landlord. If the tenant appears, but not the landlord, the court will dismiss the action.

If both parties appear, and the tenant pays the fee to file an answer in the case, the court will allow both parties to present their side of the case and then will make a decision and enter a judgment in the case.

How is the eviction performed?

The landlord may not use private help to evict a tenant, even if the judgment orders the tenant to vacate. The landlord must fill out a Notice of Restitution on form which is available at the Court Records Office, and pay a fee. The Sheriff will need to serve the tenant the Notice of Restitution to vacate. Upon receipt of the Notice of Restitution, the tenant has 4 days in which to vacate.

If the tenant chooses not to vacate, the landlord must fill out a Writ of Execution form which is also available at the Court Records Office. A fee is also required for this step as well. The landlord will deliver the completed Writ of Execution form to the Sheriff's Office and schedule a "Move Out" date at that time. The Sheriff's Office will meet you at the premises on that date and physically remove the tenant from the premises.

If you have any questions regarding court procedure, please call the Court Records Office at 503 - 623-3154.

The Court Clerks cannot give you legal advice. You should contact an attorney if you have a legal question.