

## **What type of notice does a landlord have to give to evict?**

No matter what the reason, a **landlord must give you a written notice in order to evict.** However, you do not have to move just because a landlord has given written notice. The landlord must follow a legal process, and you have the opportunity to defend against it.

A landlord's **oral notice to move is NOT good** and does NOT allow the landlord to start an eviction. You do not have to move just because a landlord has given an oral notice.

## **What type of notice does a landlord have to give in a non-payment of rent case?**

To evict you for not paying rent, the landlord may give you a written notice to either move or pay rent in 5 days. This is sometimes called a **“pay or quit”** notice. If you pay the rent in 5 days, you get to stay. If you do not pay, the landlord can start an unlawful detainer action (an eviction) in the General District Court (GDC).

**NOTE:** Under Virginia law, if you do not have a lease, and you do not pay rent, you are considered a **“tenant at sufferance.”** This means you can be evicted for any reason at all, at any time, and no notice needs to be given to you. Under this

circumstance you can go from “tenant” to “trespasser” very quickly.

## **What type of notice does a landlord have to give in other cases?**

If a landlord wants to terminate a month-to-month lease for a reason other than non-payment of rent, the landlord must give you a written notice to move out in **30 days** if the rent is paid each month.

If the rent is paid by the week, only a **7-day written notice** is required. If you do not move by the end of the 30 days (or 7 days, as the case may be) the landlord may start an unlawful detainer action.

NOTE: A tenant who pays regular rent, and does not have a written lease, will be presumed to be a periodic tenant based upon the period on which they pay that rent. Most typically this is on a month to month basis (but can be week to week or even day to day). A periodic tenant is due notice at least one rental period in advance.

## **I had a one year lease with my landlord. Now, s/he has sold the property and the new owner says I have to leave. What are my rights?**

The tenant (lessee) has the same rights against the new owner (grantee) as s/he had against the original owner (grantor). IF the lease says nothing specific

about the sale of the property, then the Virginia Residential Landlord Tenant Act (VRLTA) applies and the tenant has all the rights normally granted.

**Continue to pay your rent on time** to the new owner. You should always request a receipt of payment of rent and/or pay with check or money order, regardless of to whom it is paid, and you should not withhold rent. Withholding rent entitles the landlord to issue a five day pay or quit instead of giving you a 30 day notice. **If the building I'm renting in has *already been foreclosed on*, what notice does the new owner have to give me?**

In general, the new owner following foreclosure has to give you at least **90 days' notice**. If you have a lease and there are more than 90 days left in your term, you can't be evicted until the end of the lease, unless the new owner intends to occupy the property as his/her primary residence, in which case your lease can be terminated by giving you 90 days' notice.

## **What are the steps in an unlawful detainer action?**

A landlord must follow these steps in an unlawful detainer action:

1. **File a lawsuit**, usually in General District Court.

2. **Serve** (legally deliver) you a copy of the court papers in a lawful way.

3. **Go to court** at the date and time of your hearing.

4. **Get a judgment of possession** from the court. The landlord may or may not also get a judgment for unpaid rent and other charges at the same time.

5. **Get a Writ of Possession** from the Court. This is the paper that allows the Sheriff to evict you.

#### **When can a Writ of Possession be issued?**

If you go to court on a Summons for Unlawful Detainer, the judge must give you at least 10 more days to move. If you do not go to court AND the Summons is based on your nonpayment of rent, your landlord may get the Writ of Possession right after the court issues the order.

#### **What happens after the Writ of Possession is issued?**

The Sheriff must take the Writ of Possession to your home and serve (legally deliver) the Writ. The Writ must say the date and time after which you will be evicted. The Writ must give you at least 72 hours advance written notice of the date and time the actual eviction will take place.

#### **Can my landlord lock me out or shut off my utilities?**

Under Virginia law, the landlord may not shut off utilities, lock you out of the rental unit, or evict you without giving notice and going to court.

If the landlord locks you out or deliberately fails to supply essential services, such as heat, water, gas, or electricity, you should call local law enforcement for help. You may also have grounds to sue in court to recover possession of the property or end the lease.

For more information and a list of affordable housing options, see our Housing Guide at [www.legalaidworks.org/resources](http://www.legalaidworks.org/resources).

**This brochure is intended for information purposes only and is NOT a suitable substitute for legal advice from a certified attorney.**

If you have a specific question, please consult Legal Aid Works<sup>SM</sup> at:

500 Lafayette Boulevard  
Suite 100

Fredericksburg, VA 22401  
Telephone: (540) 371-1105

Fax: (540) 371-1114

[www.legalaidworks.org](http://www.legalaidworks.org)



**Legal Aid  
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