

PROVIDED BY: Judge C. Allen McConnell  
Housing & Environmental Court  
Toledo Municipal Court  
555 North Erie Street  
Toledo, OH 43624  
419-245-1946

DO'S AND DON'TS FOR LANDLORDS :  
THE EVICTION PROCESS

DO'S	DON'TS
<p>1. Do serve 3-day notice by handing it to Tenant or someone of suitable age at Tenant's residence, or by posting it at residence, or by completed certified mail.</p>	<p>1. Don't send by ordinary mail. Don't file complaint if certified mail is returned by post office.</p>
<p>2. Do serve 3-day notice at least 3 business days before filing complaint. (Notice served on Monday June 12 to vacate NO SOONER THAN JUNE 15; file complaint no sooner than Friday June 16.) Exclude intervening weekends and holidays.</p>	<p>2. Don't count day of service when counting 3 days (i.e., exclude day of service and count next 3 business days. Do not file complaint until at least the day AFTER date to vacate.)</p>
<p>3. Do read your lease. If it provides for a grace period for payment of rent, wait until after that grace period before serving the eviction notice. If it permits payment of rent and late charges and the tenant tenders rent and late charges as provided in the lease, then there is no grounds for eviction.</p>	<p>3. Don't refuse full payment of rent (or rent and late charges) and file an eviction action. Don't accept a partial payment of rent and serve a 3-day notice that month.</p> <p>Don't accept rent if you have already served a notice of termination of the lease on other grounds (pets, disturbance, health and safety, etc.) Exception: A notice terminating a month-to-month tenancy must be served at least 1 full rental period before the termination date. You may accept rent for June if you served notice before June 1, 2000 that the tenancy will terminate effective June 30, 2000.</p> <p>Don't terminate a lease before the end of the paid-up rental period if the tenant breaches the lease (or you become aware of the breach) after you have accepted rent for the month (i.e., if tenant is paid through June 30, do not serve 3-day notice for breach of lease on June 21 to terminate the tenancy June 24. Notice must give tenant at least through June 30.)</p>
<p>4. Do attach a copy of 3-day notice, return certified mail receipt (green card) if applicable, written lease, and any other required notices (i.e., notice of termination of tenancy, notice of increase or decrease in rental amount, etc.) to the Landlord's Complaint.</p>	<p>4. Don't wait until you get to court to produce copies of the written lease, 3-day notice, etc. [Your case may be continued for you to re-file and serve an amended complaint with copies of the required documents attached per Civ. R. 10(D) and Local Rule 35(A)(4).]</p>

<p>5. Do type or write your complete name and address (including city, state and zip code) and the complete name and address of every defendant in the caption of the complaint. Civ. R. 10(A).</p> <p>If the service address is different from the rental premises address, be sure to specify the service address in the caption and the premises address in the complaint. You may also wish to file a Praecipe to the Clerk specifying where service is to be made by ordinary and certified mail. (Service by the Bailiff must be to the rental premises address.)</p>	<p>5. Don't omit the city, state and zip code in the caption of the Complaint (even if it is Toledo OH) because the clerk will type the address as "unknown" and the post office will not deliver.</p> <p>Don't omit the apartment number or "upper/lower" "front/rear" if that is part of the address, as the bailiff will return service as "undeliverable" or "incomplete address".</p>
<p>6. Do name as parties defendant every occupant 18 years and older if you wish to have everyone in the rental unit evicted.</p>	<p>6. Don't omit an occupant because he or she did not sign the written lease. The court does not have jurisdiction over someone who is not a party to the lawsuit, and the bailiff will not set out someone unless the court orders the set-out.</p>
<p>7. Do file an original (signed) Landlord's Complaint and 3 service copies <u>per named defendant</u>. Each copy must be identical to the clerk's copy (i.e., contain the 3-day notice, lease, and all other required notices).</p>	<p>7. Don't forget to keep one complete file-stamped copy for yourself and bring it to court the day of the hearing.</p>
<p>8. Do appear in courtroom 9, 3<sup>d</sup> floor on the date and time set for hearing.</p>	<p>8. Don't forget to check in with the law clerk.</p>
<p>9. Do bring all pertinent evidence (rent ledger/receipt book, copies of notices, lease, lease amendment, etc.) and witnesses you will need for the hearing. Be prepared to try the case.</p>	<p>9. Don't bring letters or statements from other people to prove your case. That is inadmissible hearsay unless the person who wrote the letters or made the statement is present to give personal testimony. The person who served the 3-day notice or a person who witnessed the service must testify.</p>
<p>10. Do have an attorney file the Complaint if you are not the owner of the property, or if the owner is a corporation, trustee, limited liability corporation, or business operating under a name that is different from your own name. (The attorney must also appear in court for all hearings.)</p>	<p>10. Don't file a complaint (or appear at the hearing without an attorney at law) as attorney in fact, resident or property manager, caretaker, parent, child, or spouse of the owner. You cannot file a complaint or appear in court without an attorney on behalf of someone else.</p>
<p>11. Do move for a continuance in writing and serve a copy of the motion on all defendants if you are unable to appear on the date of the scheduled hearing.</p>	<p>11. Don't send someone else (your attorney in fact, resident or property manager, caretaker, parent, child, or spouse) to try the case if you cannot be present. (That person may ask for a continuance if you were not able to file the Motion for Continuance before the hearing date.)</p>

<p>12. Do tell the law clerk if the defendant has moved out of the property and returned possession to you; or if you have an agreement; or if you need help working out an agreement; or if you need to have a hearing. Also tell the law clerk if a rent escrow was filed and give the clerk the rent escrow case number. (It begins with CVJ).</p> <p>Do attempt to reach an agreement that will be made part of the Order in the case. The Order may provide for a repayment agreement, with no set-out if the tenant pays as specified in the agreement ["Stay on execution of writ of restitution, providing defendant pays plaintiff <u> X </u> Dollars by <u> Y </u> date(s);"] or may give the tenant additional time beyond the standard 7 to 10 days from date of issuance of the writ ("Stay by consent on execution of writ until Y date").</p>	<p>12. Don't wait in the courtroom until your case is called before discussing the case with the defendant. A defendant who feels he or she has been a part of a settlement is more likely to move out on the agreed date, without your need of the bailiff to assist, and is less likely to trash the premises in retaliation for some perceived injustice.</p>
<p>13. Do understand that all eviction proceedings are governed by the Ohio Rules of Evidence and by the Ohio Rules of Civil Procedure, as well as by the Rules of the Toledo Municipal Court and by applicable statutes and case law. These apply to attorneys and non-attorneys alike.</p>	<p>13. Don't ask the Clerk or Judge's staff to give legal advice.</p>
<p>14. Do purchase a Writ of Restitution in the civil clerk's office if judgment was entered in your favor and talk to the Bailiff about the physical set out. Do tell the bailiff about any special problems you are aware of.</p>	<p>14. Don't wait too long on the writ. The bailiff only has 10 days from date of issuance to execute it, and it cannot be executed upon more than 30 days after date of judgment, unless there is a provision in the Order modifying the time. Don't ask for execution on a writ if you accept rent after judgment, unless the eviction Order provides for the acceptance of rent after judgment.</p>