

# EVICTION

is the court-ordered removal of the tenant and the tenant's personal belongings from a rental property. It is the final step in a series of procedures initiated by the landlord to regain possession of the rental property. A tenant may be evicted for non-payment of rent, breach of lease, or tenant holding over. A tenant holding over is someone who did not vacate by the date given on the notice to vacate the property. Only the District Court and the Sheriff's Office may evict a tenant. The landlord does not have the right to evict without proper judicial process. Any lock-out of a tenant or removal of tenant's property without judicial process is prohibited by law and exposes the landlord to substantial civil liability. This brochure is designed to give some helpful hints that will hopefully prevent landlords and tenants from going through the eviction process. In addition, this brochure provides a list of resources for tenants who face possible eviction.

Filing complaints with the Office of Landlord-Tenant Affairs or Housing and Code Enforcement will not stay any proceeding against you in the District Court. Remember, the Department of Housing and Community Affairs is a separate entity from the Court. Therefore, in order to protect your rights, you must attend any court dates that are scheduled.

If you have questions about evictions or anything in this brochure, please call the Office of Landlord-Tenant Affairs at 240-777-0311 or browse our website at:

**[www.montgomerycountymd.gov/olta](http://www.montgomerycountymd.gov/olta)**

***This pamphlet is not legal advice but is an informative tool to help landlords and tenants. Although the information is believed to be accurate, if there are any inconsistencies with applicable laws or regulations, those laws and regulations would apply.***



Montgomery County, Maryland  
Office of Landlord-Tenant Affairs  
100 Maryland Avenue, 4th Floor  
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Phone 240-777-0311; TDD 711; FAX 240-777-3691

Email: [olta.intake@montgomerycountymd.gov](mailto:olta.intake@montgomerycountymd.gov)  
[www.montgomerycountymd.gov/olta](http://www.montgomerycountymd.gov/olta)

This information is available in an alternative format by calling 240-777-0311; (TDD) 711 ; or (FAX ) 240-777-3691



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## HELPFUL HINTS

### TENANTS:

- ▶ Always pay your rent on time. Remember, rent is due on the 1<sup>st</sup> of the month (generally rent is due on the 1st of each month, however you are bound by the date stipulated in the lease) and it is late on the 2<sup>nd</sup>. You can be sued anytime after the first. Not paying your rent on time constitutes a breach of lease and can result in a negative rental history. In a tight rental market, landlords can be more selective and may use this information as a basis not to renew your lease at its expiration.
- ▶ Always request a written receipt for your rent payments and maintain a record of your payments. If you are sued by the landlord, always attend the court hearing, even if you have paid the rent. Sometimes the landlord fails to notify the Court that your rent has been paid and the court could enter a judgment against you if you are not present.
- ▶ Try to maintain a good rental payment history. CoreLogic Safe Rent (formerly the Registry) a service used by an increasing number of landlords, specializes in collecting and reporting rental information about tenants. CoreLogic Safe Rent regularly collects information regarding landlord-tenant court filings. This information goes on your record just as poor payment history on credit cards or loan payments are reported to the credit bureaus. This information stays on your record for 7 years. Landlords who use CoreLogic Safe Rent to screen will take this information into account. Having a negative rental history can make it difficult for you to obtain alternative housing in the future.
- ▶ Tenants who are renting rooms have the same basic rights as tenants renting apartments or houses. You should get all agreements in writing and obtain receipts for all rent payments.

### LANDLORDS:

- ▶ Screen tenants carefully before signing a lease. CoreLogic Safe Rent provides comprehensive reports regarding an applicant's credit and rental history. Landlords who are currently licensed by the Department's Licensing and Registration Unit can receive reports from CoreLogic Safe Rent at a minimal cost.
- ▶ Discuss any concerns you have regarding information contained in a prospective tenant's credit history with the tenant.
- ▶ Keep accurate rental records.
- ▶ Do not let tenants get too far behind in their rent before you file suit for Failure to Pay Rent. While the court can give a judgment in favor of the landlord for rent and late fees owed, collection of a judgment can be time consuming and costly. Taking quick action will reduce your potential exposure for unpaid rent.

## THE EVICTION PROCESS

1. The landlord files the action with the District Court stating the reason he/she is requesting a judgment for repossession of the property ;
2. When filing an action to repossess property, the landlord must certify that the property is currently registered with MDE (if applicable) and give the certificate number;
3. When filing an action to repossess property, the landlord must also certify whether or not the tenant(s) is/are in active military service;
4. When filing an action to repossess property in a Failure to Pay Rent action, the landlord must provide a current rental facility license number;
5. The District Court schedules a hearing and issues the tenant a summons to appear in court. The summons is forwarded to the Sheriff's Office for service;
6. The Sheriff mails one copy of the summons to the tenant by first class mail and also attempts to serve the tenant in person. If the tenant is not available to be served, a copy of the summons is posted on the door of the rental property;
7. If the tenant appears in District Court, he/she has the right to offer a defense. At the hearing, the Judge will decide whether the landlord is entitled to the rent and/or possession of the rental property;
8. If the tenant fails to appear, the Court will likely award a default judgment for the landlord to repossess the property. If the landlord or agent fails to appear, the Court will dismiss the action;
9. If either party disagrees with the Judge's ruling, they have the right to appeal the judgment to the Circuit Court;. This appeal must be filed with in 10 days after a Tenant Holding Over or Breach of Lease judgment and within 4days after a Failure to Pay Rent judgment;
10. If no appeal is filed, or the appeal period expires, the landlord files a Warrant of Restitution, which is signed by the Judge and forwarded to the Sheriff's Office;
11. Once the Warrant of Restitution is mailed to the tenant and the landlord by the Sheriff's Office, the landlord contacts the Sheriff to Arrange a date and time for the eviction;
12. Once the eviction is scheduled, the Sheriff may post a red and white notice on the door of the rental property. However, even if such a notice is not posted, the Sheriff will still proceed with the eviction;
13. While the landlord is responsible for removing the tenant's possessions from the property and placing them in the closest public right of way, an eviction cannot take place unless the Sheriff is present;
14. If a landlord gets a judgment for repossession against a tenant for Failure to Pay Rent, in most cases, the tenant can prevent an eviction by paying the judgment before the Sheriff executes the eviction order. This payment must be made by cash, certified check or money order to the landlord or his agent (including all court awarded costs, with the exception of court awarded attorney's fees). The tenant

needs to get a receipt and confirm with the Sheriff's Office that the landlord has canceled the eviction. The tenant can be evicted the first time the landlord files an action for nonpayment of rent against him/her if the tenant does not pay when, or before, the Sheriff arrives to carry out the eviction;

15. If three judgments for unpaid rent have been entered against a tenant in the 12 months prior to the initiation of a Failure to Pay Rent action, and the tenant has paid the debt and redeemed the property, on the fourth filing, the landlord can request a Judgment Absolute, With No Right of Redemption. If a Judgment Absolute is entered, payment of overdue rent will not prevent an eviction;
16. If you receive a Warrant of Restitution, you can call the Sheriff at 240-777-7130 to see if an eviction has been scheduled for your address. While the sheriff will tell you if an eviction has been scheduled, the Sheriff will NOT tell you the specific date and time.

## RESOURCES

### EMERGENCY SERVICES

These services include emergency financial assistance and/or shelter to families or adults who are homeless or at high risk of losing their housing, victims of individual or community disasters, or persons stranded away from home. Financial assistance may be available to assist tenants with rental deposits, past due rent, past due utilities, moving or storage costs, and emergency shelter. If you receive a Failure to Pay Rent notice, you may be eligible to receive financial assistance. Please call one of the following numbers and ask about the County's emergency assistance programs:

<b>Crisis Hotline</b> (24 hours—After hours shelter referral).....	240-777-4000
<b>Mont. County Information Line</b> .....	240-777-0311
<b>Germantown Crisis Intervention</b> .....	240-777-4448
12900 Middlebrook Road, Germantown	
<b>Rockville Crisis Intervention</b> .....	240-777-4550
1301 Piccard Drive, Rockville	
<b>Silver Spring Crisis Intervention</b> .....	240-777-3075
8818 Georgia Avenue, Silver Spring	

In addition, there are several community based charitable organizations that can assist you in a crisis. Contact the Emergency Service Center in your area for a referral.

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### LEGAL SERVICES

Legal Aid Bureau, Inc. ....	240-314-0373
Pro Bono Clinic (MC Bar Assn.) .....	301-424-7651
Archdiocesan Legal Network .....	202-628-4263
Lawyer Referral (MC Bar Assn.) .....	301-279-9100
District Court Free Legal Services .....	410 260-1392

