

THE EVICTION PROCESS



Weld County Sheriff's Office
Civil Division
1950 O Street
Greeley, CO 80631
Phone (970) 356-4015 x 2823/2829
Fax (970) 304-6467

www.weldsheriff.com

Revised 04/10 WC0634

This brochure is intended only as a general guide regarding tenant evictions and the role of the Weld County Sheriff's Office. Please note that all Weld County Sheriff's Office employees are prohibited by law from giving legal advice (C.R.S. 30-10-520). Other Statutes (i.e. Title 38 Article 12 and Title 13 Article 40) can be viewed at www.courts.state.co.us. Forms are also available. You should consult an attorney for legal advice.

Step One: Notice

Most eviction proceedings are due to a tenant failing to make rent payments, although other circumstances may apply.

When the landlord decides to proceed with an eviction action, he must complete a written notice to the tenant such as a Demand for Compliance, Right to Possession, or Notice to Quit. This notice must set forth the grounds for the landlord's demand for possession of the property, the date/time that the tenancy will terminate, and must be signed by the landlord or his agent/attorney. The amount of time between the time of service and the termination varies based on the type and length of tenancy or reason for termination. The most common length of time is 3 days for failure to pay rent. The notice may be served on the tenant, other occupant, or a

relative over the age of 15 living at the residence. If no one is present, the Notice maybe posted in a conspicuous place (i.e. front door). It is recommended that wording such as "and all other occupants" be included on all paperwork, in addition to known tenants or persons known to live there.

Step Two: Summons in Forcible Entry and Detainer (SFED)

If the tenants do not move out by the date specified in the written notice, the landlord or his attorney must file an action at the Weld County Court requesting recovery of the premises. Past-due rent and other specific claims may also be included as part of the complaint. The court clerk will issue a summons to be served on the tenant(s). The summons will command their appearance in court, no less than 5 business days nor more than 10 calendar days from the date the summons was issued.

The SFED is served on the tenants (now referred to as defendants). A proper legal service must be made on **each** tenant. If there are multiple tenants, the court will not have jurisdiction over tenants that are not served. The documents may be served by the Sheriff's Office, a private process server, or a person over the age of 18 and not a party to the action. Service

must be made at least 5 **business** days prior to the court date (not including Sundays and holidays). If service cannot be made “after having made all diligent effort” to make personal service, the process may be posted. You must also mail a copy of the SFED to the defendant no later than the next day following your filing date. If the landlord is also trying for a money judgment, personal service must be obtained.

Step Three: Court Hearing

If the court finds in favor of the plaintiff, a judgment will be entered for possession of the premises. The defendant may file an answer contesting the claim. If personal service was made, the court may also award a money judgment. If the service was by posting, the money judgment may be obtained later through a separate action (i.e. small claims court), or a continuance to try to obtain personal service. If the court rules in favor of the defendant, he may be entitled to a judgment for his costs.

Step Four: Writ of Restitution

If the plaintiff is awarded the judgment and no appeal is filed, the court will issue the Writ of Restitution after 48 hours. If the tenants move out on their own during this period, the plaintiff does not have to obtain the Writ of Restitution.

When the Writ of Restitution (valid for 45 days) has been obtained, it must be brought to the Weld County Sheriff’s Office. Only a Sheriff’s Deputy can execute the Writ of Restitution. A date/ time will be scheduled for the execution of the Writ. The deputy has the authority to reschedule an eviction. Prior to the eviction day a courtesy notice will be posted at the premises advising of the date of the eviction (we do not give the time for the safety of our deputy).

On the day of the eviction the deputy will meet the plaintiff at the premises. The plaintiff must provide sufficient physical labor to remove all belongings from the residence in approximately one hour (the deputy does not assist in the moving of property) and placed along the nearest public right-of-way. Under Colorado Law (13-40-122(2), the deputy shall be immune from civil liability for any damage to a tenant’s personal property that was removed from the premises during the execution of the writ. A landlord who complies with the lawful direction of the deputy executing the writ shall be immune from civil and criminal liability for any act or omission related to a tenant’s personal property that was removed from the premises during or after the execution of a writ of restitution. The statute does not

specify how long the property is to remain after being removed to the public right-of-way. The municipality (code enforcement) usually determines when the property must be moved. Locks can be changed after all belongings have been removed from the premises. Abandoned pets will be turned over to Animal Control for that jurisdiction. Abandoned vehicles are the responsibility of the property owner.

Mobile home evictions have a Notice of Judgment and Possession issued by the court in addition to the Writ of Restitution. If the mobile home needs to be removed from a lot, please refer to Statute or call our office for specifics.

If a crime has been committed by a tenant, or if rental property is intentionally being damaged, report it to your local law enforcement agency. If you have a life-threatening situation, call 911.

Fees for Service:

Written notice/demand: \$35/def +mileage
Summons/Complaint: \$35/def+mileage
Writ of Restitution: \$65/def+mileage