

Overview of the “Formal” Eviction Process

Landlord serves Tenant with an eviction notice for nuisance, tenancy-at-will, nonpayment of rent, lease violation, “no cause,” or a 3-day or 90-day notice following sale or foreclosure. (Tenants who receive a notice following a foreclosure should read “Evictions Following Foreclosure” on the Self-Help Center website.)

Tenant “cures” the reason for the eviction or vacates within the period of the eviction notice. Landlord likely has no need to proceed with the “formal” eviction process, but may still sue the Tenant for money damages.

Tenant fails to “cure” the reason for the eviction or vacate within the period of the eviction notice. Landlord may proceed with a “formal” eviction action and sue Tenant for possession of the premises and money damages.

Landlord files a verified “Complaint for Unlawful Detainer” in the Justice Court (if he’s seeking money damages less than \$10,000) or District Court (if more than \$10,000). Landlord might obtain a court order setting a “show cause” hearing and an order shortening the Tenant’s time to answer Landlord’s Complaint. Landlord might also request a trial date.

Landlord serves Tenant with a Summons and the Complaint for Unlawful Detainer. Tenant might also receive a court order setting a “show cause” hearing at which the judge will determine whether Landlord is entitled to a “temporary writ of restitution,” giving Landlord possession of the premises; an order shortening Tenant’s time to answer the Complaint; and possibly a notice setting the case for trial.

Tenant can file an Answer to Landlord’s Complaint (within the shortened time period, if applicable). Tenant might also file a written opposition to the issuance of the “temporary writ of restitution” if a “show cause” hearing is scheduled.

If a “show cause” hearing has been set, the judge will conduct a hearing to decide whether a “temporary writ of restitution” should be granted, which would give Landlord possession of the premises during the case.

If a “show cause” hearing has not been set, Landlord might still file the paperwork to set a hearing date or he may proceed to trial (by filing a request for trial setting if a trial date has not yet been obtained).

If the judge denies Landlord’s request for a “temporary writ of restitution,” Tenant remains in possession of the premises during the case. Landlord can proceed to trial and seek a “permanent writ of restitution” and money damages at trial.

If the judge grants Landlord’s request for a “temporary writ or restitution,” Landlord can post a monetary bond with the court and have the constable execute the writ and remove Tenant from the premises until the case is ended. Landlord can then proceed to trial to obtain a money judgment against Tenant and a “permanent writ of restitution,” giving Landlord permanent possession of the premises.

Landlord and Tenant go to trial (before a jury if one has been requested). Landlord and Tenant put on their witnesses and evidence, and a final judgment is rendered in the case.

If Tenant wins, he may avoid the issuance of a “permanent writ of restitution” and an award of monetary damages. Landlord has ten days to appeal the judgment.

If Landlord wins, Landlord may get a “permanent writ of restitution,” giving him possession of the premises, and a money judgment against Tenant. Tenant has ten days to appeal and post a bond to stop enforcement of the writ. If the action was for non-payment of rent and Tenant has a valid lease, Tenant may be able to pay the judgment and stay in the premises.