

**OFFICE OF
WASHINGTON COUNTY SHERIFF**

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Eviction Process/Procedures

This procedural information is not intended to be a substitute for legal advice. This information may not address all situations that may occur. Any legal questions should be referred to an attorney. If the landlord wishes to terminate tenancy for any other reason and is not familiar with applicable landlord tenant laws, THEY SHOULD SEEK LEGAL ADVICE.

Steps of an Eviction

1. Notice to Cure or Quit for Non-Payment of Rent
2. Forcible Entry & Detainer
3. Writ of Possession
4. Day of the Eviction

General Eviction Information for Landlords

Many landlords have questions about how the eviction process works in Iowa. This document is intended to answer some of those questions by explaining how the process generally works. This is not a replacement for legal advice because there are many technical issues that may arise, as well as current codes and rulings that are constantly changing. Advice from an attorney is always recommended.

1. Notice for Non-Payment of Rent

If rent is not paid when due, the landlord must deliver a "NOTICE TO CURE OR QUIT" (Three-Day Notice form) to the tenant. This notice must state that the rent is due but unpaid, and the landlord intends to terminate the Rental Agreement in three (3) days if the rent is not paid. We do have the Three-Day Notice forms in the Sheriff's Office, your attorney or use the one attached.

Notice to Cure or Quit

Notice to cure or quit needs to be served by one of the following methods:

Notice can be hand delivery to the tenant or resident that is at least 18 years old. The tenant or resident must sign and date the notice confirming that they have received it.

Notice can be posted on the tenant's door. If posting on the door, landlord must also send out a copy by certified mail and regular mail. Landlord must save receipts from the post office showing that the notice was mailed. The notice is considered served 4 days after the notice is deposited in the mail and postmarked. Therefore, do not begin counting the 3 days to cure or quit until after the 4 days for mail has elapsed. For example, the notice is mailed and posted on the 2nd of the month. The 4 days for mail would be the 3rd, 4th, 5th, & 6th. The 3 days to cure would be the 7th, 8th, & 9th. Landlord would be able to file their eviction on the 10th.

Notice can be served by personal service either by a process server or the Washington County Sheriff's Office. An affidavit of service will be provided to the landlord after completion of service.

Counting Days

When counting days, do not count the day notice is received by the tenant(s). Count all days including weekends and holidays. However, if the last day falls on a Sunday or holiday the tenant should be given the following day to comply. Do not proceed to file a forcible entry and detainer suit until the time allotment has passed. When in doubt, give more time.

This procedural information is not intended to be a substitute for legal advice. This information may not address all situations that may occur. Any legal questions should be referred to an attorney.

Notice to Terminate Tenancy for Any Other Reasons

If the landlord wishes to terminate tenancy for any other reason and is not familiar with applicable landlord tenant laws, THEY SHOULD SEEK LEGAL ADVICE.

Next is the Forcible Entry & Detainer Notice

2. Forcible Entry & Detainer

All notices to terminate must be followed up by serving a Forcible Entry & Detainer Notice (FED), which is obtained from the Clerk of Court. This sets a court date for the landlord and the tenant to appear in court. The landlord will be requesting an immediate eviction. The landlord must have all copies of previous notices in the court file to have them available to present at court. Service must be completed three (3) days prior to hearing. The Sheriff must attempt service twice. If unsuccessful, the landlord may post, send by regular mail and send by certified mail.

Next is the Writ of Possession

3. Writ of Possession

When the Clerk of Court receives a ruling on a Forcible Entry & Detainer action in your favor, you will need to request that the Clerk issue a Writ of Possession to the Sheriff. **IT WILL NOT BE DONE AUTOMATICALLY.**

The Sheriff's Office will be delivering a copy of the Writ along with a courtesy letter stating the date and time of the eviction to the address of the defendant. We require that this be done at least 24 hours prior to the eviction. Evictions are first come first serve basis in conjunction with Sheriff's Office scheduling. It is not necessary to serve this order on the defendant, as we will post it on the door if no one is available.

Next is the Day of the Eviction

4. Day of the Eviction

The day of the eviction, we will expect the plaintiff or his or her agent to check the location to see if the defendant has vacated voluntarily. To schedule, confirm or cancel the eviction, please call the Sheriff's Office, Civil Division, at 319-653-6651 between 9:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) to schedule an eviction time. We will not respond until we hear from you. If you discover that the defendant has vacated before the eviction date, please inform our office.

At the time of the eviction, we will expect the plaintiff to provide enough manpower to complete the eviction in a reasonable timeframe. We recognize that unusual situations requiring some more time will occur occasionally. The process must be completed by 4:00 p.m. and will be scheduled with that goal in mind. Our function is to provide the authority, keep the peace, and direct the procedure. The Sheriff's Office will not assist in the removal of any property.

We also request that the plaintiff provide enough boxes and large trash bags to facilitate efficient moving of property. If heavy rain or snow is imminent, it is suggested that sheets of plastic be used to cover the property to prevent unnecessary damage. The eviction will only be postponed because of more severe weather conditions. If a waterbed needs to be drained, we may request that you bring a pump in the interest of time.

If a refrigerator or freezer is involved, we will expect the plaintiff to secure the appliance so a child will not have access or remove the door.

We will have the plaintiff move the property to the curbside area. We expect the plaintiff to remove all property from the residence. Property left behind from the tenant will need to sit for a minimum of 24 hours after the eviction is conducted. Tenant will have 24 hours to retrieve said property. After 24 hours any property that remains will be deemed abandoned and can then be removed from the premises by the plaintiff.

If the defendant vacates voluntarily, it is up to the plaintiff to decide if they want to have our office stand by while any remaining property is removed. Plaintiff will be billed at \$25.00 per officer per hour plus mileage if he/she elects to have our office stand by.

If the eviction procedure is canceled, the plaintiff accepts any liability for property left behind.

GENERAL EVICTION INFORMATION FOR LANDLORDS

Many landlords have questions about how the eviction process works in Iowa. This document is intended to answer some of those questions by explaining how the process generally works. This is not a replacement for legal advice because there are many technical issues that may arise, as well as current codes and rulings that are constantly changing. Advice from an attorney is always recommended.

Cause for Eviction

The first step of the eviction starts with the landlord having cause for eviction. Cause includes such things as:

- Non-payment of rent ⁽¹⁾
- Noncompliance with healthy and safety building and housing codes ⁽²⁾
- Unsanitary conditions ⁽³⁾
- Improper disposal of wastes ⁽⁴⁾
- Unreasonable use or manner of use of all electrical, plumbing sanitary, heating ventilating, air conditioning, and other facilities and appliances including elevators in the premises ⁽⁵⁾
- Deliberately or negligently destroy, deface damage, impair or remove a part of the premises or knowingly permit a person to do so ⁽⁶⁾
- Act in a manner that will disturb a neighbor's peaceful enjoyment of the premises ⁽⁷⁾
- Violations of the rental agreement ⁽⁸⁾
- Create a clear and present danger to the health and safety of the other tenants, landlord, landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property ⁽⁹⁾

Necessary Notices and Service Procedures

Once there has been a violation of one of the above conditions the landlord needs to give written notice to the tenants that they are in violation. Usually the types of notices fall into one of the following:

- Failure to pay rent
 - Three day notice of intent to terminate lease/notice to cure ⁽¹⁰⁾
- Violation of lease
 - Seven day notice to correct violation or lease terminates ⁽¹¹⁾
 - For mobile homes 14 day notice to correct violation or lease terminates in 30 days ⁽¹²⁾
- Clear and present danger
 - Three day notice to quit for clear and present danger ⁽¹³⁾ (should include information about what tenant can do to correct issue including notification to landlord)
- Stay over after lease expired
 - Three day notice to quit ⁽¹⁴⁾
- Other reasons landlord wishes to terminate lease
 - 30 day notice from next periodic rental date ⁽¹⁵⁾
 - Three day notice to quit ⁽¹⁶⁾
- No rental agreement but possession established (family member, guest, significant other, or squatter)
 - Three day notice to quit ⁽¹⁷⁾

Additional forms available for landlords:

These forms are available in separate packet.

- 30 Notice to Terminate Tenancy
- Notice to Quit

- 3 Day Notice of Termination and Notice to Quit, Clear & Present Danger
- Notice of Past Due Rent
- Notice of Noncompliance with Rental Agreement
- Crime Free Lease Addendum

Landlords: If you would like to do a criminal history check on a potential renter, you may go to www.iowacourts.state.ia.us. Begin by clicking on “Start A Case Search Here”. Click “Case Search” and fill in the blanks with whatever information you have available. Hit search.

Please seek legal counsel for questions about the eviction process. The Sheriff’s Office is unable to give legal advice.

References:

- 1 Iowa Code sections 562A.27 (562B.25 for Mobile Homes)
- 2 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 3 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 4 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 5 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 6 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 7 Iowa Code sections 562A.17 (562B.18 for Mobile Homes)
- 8 Iowa Code sections 562A.27 (562B.25 for Mobile Homes)
- 9 Iowa Code sections 562A.27A (562B.25A for Mobile Homes)
- 10 Iowa Code sections 562A.27(2); 562B.25(2); 648.3(1) as Amended by 2010 Iowa Code
- 11 Iowa Code section 562A.27(1)
- 12 Iowa Code section 562B.25(1)
- 13 Iowa Code section 562A.27A(1)
- 14 Iowa Code section 648.3 as Amended by 2010 Iowa Code
- 15 Iowa Code sections 562.4; 562A.9(4); 562A.34(2) [562B.10(4) 60 Day Notice for Mobile Homes 562B.10(4)]
- 16 Iowa Code section 648.3 as Amended by 2010 Iowa Code
- 17 Iowa Code section 648.3 as Amended by 2010 Iowa Code
- 18 Iowa Code sections 562A.8; 562A.29A; (562B.9; 562B.27A for Mobile Homes) as Amended by 2010 Iowa Code
- 19 Iowa Code section 4.1(34)
- 20 Iowa Code section 648.5 as Amended by 2010 Iowa Code
- 21 Iowa Code sections 648.3; 648.5 as Amended by 2010 Iowa Code
- 22 Iowa Code sections 648.3; 648.5; 4.1(34) as Amended by 2010 Iowa Code
- 23 Iowa Code section 562A.27(4)
- 24 Iowa Code section 562A.27A(3) as Amended by 2010 Iowa Code
- 25 Iowa Code section 648.22
- 26 Iowa Code section 648.20

NOTICE TO CURE OR QUIT

To: _____, tenant in possession. You are hereby notified that the rent is now due and payable on the premises held and occupied by you, being those premises situated in the City of _____, County of Washington, State of Iowa, commonly known as _____.

Your account is delinquent in the amount of \$ _____, being the rent for the period from _____ to _____.

You are hereby required to pay said rent **IN FULL** within **THREE (3)** days or to remove from and deliver up possession of the above mentioned premises, or legal proceedings will be instituted against you to recover possession of said premises, to declare the forfeiture of the lease or rental agreement under which you occupy said premises and to recover rents and damages, together with costs and other damages allowed by statute.

Dated this _____ day of _____, 20_____.

Owner/Manager

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the Notice to Cure or Quit of which this is a true copy, on the above-mentioned tenant in possession in the manner indicated below:

() On _____, 20____, I sent a true copy of the Notice to Cure or Quit to the tenant at his/her place of residence by certified mail and regular mail. I also posted a copy of the Notice to Cure or Quit to the tenant's door at his/her place of residence.

() On _____, 20____, I handed the Notice to Cure or Quit personally to the tenant or to a person residing at the tenant's address who was at least 18 years of age and the tenant signed acknowledging acceptance.

Tenant's Signature

Date

() By personal service of the notice pursuant to Iowa Rule of Civil Procedure 1.305 with attached affidavit of service.

Executed on _____, 20____ at _____.

**THREE DAY NOTICE OF TERMINATION AND NOTICE TO QUIT
FOR CLEAR AND PRESENT DANGER PURSUANT TO § 562A.27A CODE OF IOWA**

TO: _____

You and each of you are hereby notified that pursuant to Iowa Code Section 562A.27A which provides for this single-notice form, your Rental Agreement is terminated effective three (3) days from the date of service of this Notice upon you, and it is demanded that you vacate and surrender possession of the premises now occupied by you and described as follows:

This Notice is being given to you for the reason that you or persons on the premises with your consent have created circumstances, or maintained a threat constituting a clear and present danger to the health and safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within 1000 feet of the landlord's property. The nature of the clear and present danger, and the incidents giving rise to the clear and present danger are as follows:

- Physical assault or threat of physical assault.
- Illegal use or threat of illegal use of a firearm or other weapon, or possession of an illegal weapon.
- Illegal possession or delivery of a controlled substance.
- Other: (specify) _____

Specifics: _____

You will therefore take notice and govern yourselves accordingly.

Landlord
By: _____

AFFIDAVIT OF SERVICE

The undersigned declares under penalty of perjury that I served the 3-day Notice to Quit, of which this is a true copy, on the above-mentioned Tenant in Possession in the manner(s) indicated below:

[] On _____, 20____, I handed the Notice to _____, who is a resident of the tenancy and at least 18 years of age, and who acknowledged this hand delivery by signing and dating as indicated below.

Tenant's Acknowledgement

Date

[] I personally served the Notice in accordance with Iowa Court Rule 1.305 on _____.

[] I posted a dated copy of the Notice on the primary entrance door of the tenancy on _____, 20____, and mailed additional copies of the Notice by both regular and certified mail (as that term is defined in Iowa Code §618.15) to the address of the tenancy or to the last known address of the tenant which was: _____.

Executed on _____, 20____ at _____.

Signature

562A.27A TERMINATION FOR CREATING A CLEAR AND PRESENT DANGER TO OTHERS.

1. Notwithstanding section 562A.27 or 648.3, if a tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, the landlord's employee or agent, or other persons on or within one thousand feet of the landlord's property, the landlord, after the service of a single three days' written notice of termination and notice to quit stating the specific activity causing the clear and present danger, and setting forth the language of subsection 3 which includes certain exemption provisions available to the tenant, may file suit against the tenant for recovery of possession of the premises pursuant to chapter 648, except as otherwise provided in subsection 3. The petition shall state the incident or incidents giving rise to the notice of termination and notice to quit. The tenant shall be given the opportunity to contest the termination in the court proceedings by notice thereof at least three days prior to the hearing.

2. A clear and present danger to the health or safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within one thousand feet of the landlord's property includes, but is not limited to, any of the following activities of the tenant or of any person on the premises with the consent of the tenant:

- a. Physical assault or the threat of physical assault.
- b. Illegal use of a firearm or other weapon, the threat to use a firearm or other weapon illegally, or possession of an illegal firearm.
- c. Possession of a controlled substance unless the controlled substance was obtained directly from or pursuant to a valid prescription or order by a licensed medical practitioner while acting in the course of the practitioner's professional practice. This paragraph applies to any other person on the premises with the consent of the tenant, but only if the tenant knew of the possession by the other person of a controlled substance.

3. This section shall not apply to a tenant if the activities causing the clear and present danger, as defined in subsection 2, are conducted by a person on the premises other than the tenant and the tenant takes at least one of the following measures against the person conducting the activities:

- a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.
- b. The tenant reports the activities causing the clear and present danger to a law enforcement agency or the county attorney in an effort to initiate a criminal action against the person conducting the activities.
- c. The tenant writes a letter to the person conducting the activities causing the clear and present danger, telling the person not to return to the premises and that a return to the premises may result in a trespass or other action against the person, and the tenant sends a copy of the letter to a law enforcement agency whose jurisdiction includes the premises. If the tenant has previously written a letter to the person as provided in this paragraph, without taking an action specified in paragraph "a" or "b" or filing a trespass or other action, and the person to whom the letter was sent conducts further activities causing a clear and present danger, the tenant must take one of the actions specified in paragraph "a" or "b" to be exempt from proceedings pursuant to subsection 1.

However, in order to fall within the exemptions provided within this subsection, the tenant must provide written proof to the landlord, prior to the commencement of a suit against the tenant, that the tenant has taken one of the measures specified in paragraphs "1" through "3".

**NOTICE OF NONCOMPLIANCE WITH RENTAL AGREEMENT
(7/7 DAY NOTICE)**

TO: _____ (Tenant)

You are notified that the undersigned claims the following material noncompliance by you of your Rental Agreement with the undersigned or noncompliance by you of a provision of Iowa Code Section 562A.17 which materially affects health and safety, covering the property at:

The specifics of the noncompliance are:

IF THE ABOVE-SPECIFIED BREACH IS NOT REMEDIED WITHIN 7 DAYS AFTER YOU RECEIVE THIS NOTICE, THE RENTAL AGREEMENT WILL TERMINATE ON _____.

Dated: _____.

Landlord By:

AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn, declares under penalty of perjury that I served the 7/7 day Notice of Noncompliance with Rental Agreement, of which this is a true copy, on the above-mentioned Tenant in Possession in the manner(s) indicated below:

On _____, 20____, I handed the Notice to _____, who is a resident of the tenancy and at least 18 years of age, and who acknowledged this hand delivery by signing and dating as indicated below.

Tenant's Acknowledgement

Date

I personally served the Notice in accordance with Iowa Court Rule 1.305 on _____.

I posted a dated copy of the Notice on the primary entrance door of the tenancy on _____, 20____, and mailed additional copies of the Notice by both regular and certified mail (as that term is defined in Iowa Code §618.15) to the address of the tenancy or to the last known address of the tenant which was:
_____.

Executed on _____, 20____ at _____.

Signature

30 DAY NOTICE TO TERMINATE TENANCY

TO: _____ DATE: _____

RE: (address of Premises)

NEXT RENTAL DUE DATE: _____

You are hereby given notice that the month to month tenancy of the aforesaid premises shall terminate immediately upon the expiration of thirty (30) days after the next rental due date. In the event of such termination of tenancy, you are further notified to immediately remove yourself from and deliver up possession of the aforesaid premises.

This notice is intended for the purpose of terminating the Lease/Rental Agreement by which you now hold possession of the above-described premises, and should you fail to comply, legal proceedings will be instituted against you to recover possession to declare said Rental Agreement forfeited, and to recover rents and damages for the period of unlawful detention.

Owner/Manager

AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn, declares under penalty of perjury that I served the 30-day Notice to Terminate Tenancy, of which this is a true copy, on the above-mentioned Tenant in Possession in the manner(s) indicated below:

[] On _____, 20____, I handed the Notice to _____, who is a resident of the tenancy and at least 18 years of age, and who acknowledged this hand delivery by signing and dating as indicated below.

Tenant's Acknowledgement

Date

[] I personally served the Notice in accordance with Iowa Court Rule 1.305 on _____.

[] I posted a dated copy of the Notice on the primary entrance door of the tenancy on _____, 20____, and mailed additional copies of the Notice by both regular and certified mail (as that term is defined in Iowa Code §618.15) to the address of the tenancy or to the last known address of the tenant which was:
_____.

Executed on _____, 20____ at _____.

Signature

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Resident agree as follow:

1. Resident, any members of the resident's household or a guest or other person under the resident's Control shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Iowa Code Chapter 124).
2. Resident, any member of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the said premises.
3. Residents or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless or whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household or a guest or another person under the resident's control shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance as defined in Iowa Code Chapter 124, at any locations, whether on or near the dwelling unit premises or otherwise.
5. Resident, any member of the resident's household, or a guest or another person under the resident's control shall not engage in any illegal activity, including prostitution, criminal street gang activity, threatening or intimidating, assault, including but not limited to the unlawful discharge of firearms, on or near the dwelling unit premises, or any breach of the lease agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his agent or other tenant or involving imminent or actual serious property damage.
6. **VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.**
A single violation of any of the provisions of this added addendum shall be deemed a serious violation and a material and irreparable non-compliance. It is understood that a single violation shall be good cause for termination of the lease under Iowa law. Unless otherwise provided by law, proof of violation shall not require criminal conviction.
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern.
8. This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident.

Resident Signature

Date

Resident Signature

Date

Resident Signature

Date

Property Manager's Signature

Date

Property