

From The Beat To The Bench
March 2010

Given the depressed local economy it is not too surprising that we are experiencing an increase in the number of evictions being filed. In 2009 we had 100 evictions filed in our Court.

In Ohio, the residential landlord-tenant legal relationship is governed by Chapter 5321 of the Ohio Revised Code. Leases may be either oral or written provided that the term is less than three years. Leases for a term of three years or longer must be in writing and notarized.

Written terms of leases are generally enforceable unless the court determines them to be unconscionable. This must be determined on a case by case basis but generally means that the terms are ridiculously one-sided.

Most evictions arise from the non-payment of rent. Under Ohio law these cases are known as forcible entry and detainer actions and are governed by Chapter 1923 of the Ohio Revised Code.

Before filing an eviction with our Court a landlord must give the tenant a special three day notice to vacate. This notice must contain a very specific statutory notice of tenant's rights. Copies of the three day notice may be obtained from our Clerk's office.

After the three days have expired the landlord may file his eviction complaint. Once again our Clerk has a complaint form that can be utilized. The Court will then schedule a hearing on the eviction. The first hearing is limited to the issue of whether the tenant may be evicted. The landlord must prove that he is entitled to the eviction due to the tenant's non-payment of rent or other violations of the lease. The landlord must also show service of the three day notice. Service may be by certified mail, personally handing it to the tenant or by posting it on the premises.

If the landlord prevails at the hearing the Court will issue what is known as a "writ of restitution". This is a legal document that, in essence, orders the tenant to move out. The law provides that the court can give the tenant up to 10 days to move, unless the parties agree to a longer period.

If the tenant has not moved by the specified date the Court's Bailiff will supervise the landlords moving the tenant's possessions from the residence.

The Court will also set a second hearing, if requested, on the amount of rent and damages that may be due the landlord.

Evictions are obviously stressful for all parties and the Court personal. We encourage the parties to work out an agreeable solution if at all possible.

In a future article I will describe the special rules that apply to mobile home evictions and the new law that governs evictions from a foreclosed property.

You can go online at the Vermilion Municipal Court website to obtain the "complaint for eviction and money" and "notice to leave the premises" forms at www.vermilionmunicipalcourt.org.