

## Quick Overview on How to File an Eviction:

- A. Plaintiff (landlord) posts on the door of the tenant a Notice to Vacate using the rules in Oregon Revised Statute (ORS) Section 90. After the time period on the Notice to Vacate has passed, then the landlord can proceed with the eviction as follows:
- B. Plaintiff (landlord) files summons and complaint, pays the filing fee, is assigned a Docket (Case) Number, and Clerk assigns date for first court appearance.
- C. Plaintiff is provided with four copies of the Documents:
  1. For their Records,
  2. To Mail to the Defendant (tenant),
  3. To be Served by someone who has no interest in the case,
  4. To be Returned to the Court by the Server (not the Plaintiff).
- D. First Appearance: If tenant appears and wants to challenge eviction, mediation will be suggested. If parties decline mediation, or no agreement is reached, the defendant (tenant) must file an answer by 4:30 p.m. that same day. All parties should report to the Clerk to pay the required fees for the hearing.
- E. If the parties reach an agreement or agree to mediation, the case can be dismissed. If either party fails to comply with the agreement, an affidavit can be filed and judgment will be entered.
- F. If the landlord prevails at trial, or if the tenant does not comply with a mediated agreement and the court enters a judgment for restitution, the landlord can require the tenant's removal.

## General Information

1. PURPOSE OF THE PROCESS  
The action is for the possession of the property only. However, the judge will listen to other limited issues if they are raised by the tenant as a defense to the action for possession. The court will not give the landlord a judgment for monies owed. A landlord must file a separate small claims action to be awarded a judgment of money or to process other non-possession claims.
2. NOTICE  
Prior to seeking help from court, the landlord must give the tenant proper written notice of the landlord's concern. If the tenant is required by the notice to do something (pay rent for example) or to quit doing something (loud music for example) the landlord cannot obtain help from the court unless the tenant does not comply with the notice.
3. FAILURE TO PAY  
In the case of failure to pay rent, the rent must be 8 or more days past due before notice can be given. If the tenant does not comply with the notice within the required time, a complaint can be filed with the court. If the landlord accepts a partial rent payment, the original notice may no longer be effective.
4. FIRST APPEARANCE  
The first appearance in court will be scheduled approximately a minimum of 9 days after the landlord files the complaint and pays the court's fees. At the first appearance the court will gather information from both the tenant and the landlord to determine if a hearing should be held.  
If the tenant fails to appear, a default judgment will be entered in favor of the landlord for possession of the premises and costs. If the tenant appears and the landlord does not, the case will be dismissed. If both parties fail to appear, the case will be dismissed.
5. SETTLEMENT  
Landlords and tenants often settle cases by agreeing on a date by which the tenant will move out, or by the tenant paying back rent and the landlord agreeing to let the tenant stay.

If the case is settled by the tenant agreeing to vacate, the judge will sign a Judgment of Restitution that gives the landlord possession of the dwelling after the date by which the tenant has agreed to vacate and the landlord's costs, including a prevailing fee. If a different settlement is reached, the agreement needs to be put in writing and the judge will sign an order disposing of the case. A trained mediator may be available to help the parties find an agreement and to put that agreement in writing.

6. ANSWER

If a full contested hearing is ordered, the tenant must file an answer as soon as possible, but no later than 4:30 p.m. the same day as the first appearance. The tenant must pay an answer filing fee or apply to the court for a deferral of the cost. The tenant can request a jury trial but must pay an additional fee. Answer forms are available at the small claims office and must be fully completed by the tenant. The landlord must pay an additional filing fee and trial fee if the tenant is contesting. The additional fees must be paid immediately after the answer is filed.

7. TRIAL

A contested hearing (trial) will be scheduled for a date within a reasonable number of days of the first appearance unless the landlord agrees to a later date. At the hearing, the landlord must show the court why the landlord should be given possession of the property. The tenant may also offer evidence to show why the landlord should not be given possession.

8. JUDGMENT

After hearing the evidence from the parties present, the judge will make a ruling and the judgment of the court is recorded as public record. Such court information is usually reviewed and reported by credit reporting agencies and landlord associations.

9. ENFORCING JUDGMENT

If a judgment for possession is ordered by the court, the landlord can enforce the judgment by having the court clerk issue a Notice of Restitution for a fee. The notice is served on the tenant and gives the tenant four days, not counting the date it was served, to move from the premises. The landlord must make arrangements for service with either the sheriff's office or a private process server. If the notice is not complied with, the landlord must return to the court to request a Writ of Execution and pay an additional fee and cost for service. The Court issues the Execution, which is given to the sheriff's office for service. Unless the judgment otherwise states, neither the Notice of Restitution nor the Writ of Execution can be issued more than 60 days after the date of the judgment or more than 60 days after the date specified for possession in the judgment, whichever is later.

10. SHERIFF EXECUTION

The landlord needs to contact the sheriff's office to schedule a time to meet at the property, physically remove the tenant and turn the property over to the landlord.

11. STORAGE OF TENANT PROPERTY

Once the tenant is removed the landlord may then change the locks and must store the tenant's remaining belongings. The landlord must issue proper notice of the tenant's rights to the tenant. The court does not have a form explaining tenants' rights. Forms may be obtained from landlord organizations or office supply/stationary stores.

12. EVICTION AFTER MEDIATION

If an agreement is reached but the landlord claims the tenant has not done as the parties agreed, the landlord can file an affidavit with the court clerk and ask for judgment of restitution. As in 9 above, a Notice of Restitution will be issued for a fee and must be served on the tenant. The tenant has the right to immediately ask for a hearing on whether the agreement was followed. The tenant must explain the reason for requesting a hearing. The court can deny the request. If the tenant does not contest the notice, once it has been properly served, or if the tenant is found to be in non-compliance by the court, the process described in 9, 10, and 11 above applies.