

SWIFT JUSTICE: AN OVERVIEW OF THE RENT COURT PROCESS IN MARYLAND STATE DISTRICT COURT FROM THE LANDLORD'S PERSPECTIVE

By: Paul M. Flannery, Esq. and Douglas J. Furlong, Esq.

In the current economic environment, many individuals and businesses alike are struggling to make ends meet. Landlords are seeing an increased frequency of tenants not making timely rent payments. Although some landlord-tenant disputes can be efficiently resolved through negotiations and a reasonable payment plan for the tenant, there are times when the landlord's best business decision is to evict the tenant. This article briefly summarizes the process and most important issues relating to tenant evictions for failure to pay rent.

Whenever a residential or commercial tenant fails to pay rent when due according to the terms of a lease, the landlord has a right to evict the tenant, or "repossess" the premises. The process begins with the filing of a complaint in the Maryland State District Court for the county in which the property is situated.

The rent court system is designed to be swift and not to be bogged down with complex proof issues. Thus, in a rent court proceeding the landlord can only seek to repossess the premises and sue the tenant for *past rent* that has become due. Bringing a rent action in the District Court for repossession of the property and past due rent does not prevent the landlord from later seeking additional damages from the tenant for future rent in a simple breach of contract action.

The complaint is set out on a District Court form. Although the form is designed to be straightforward and reader friendly, it is best to contact a lawyer for help in navigating through the rent court system. Judges can and do dismiss failure to pay rent actions filed by *pro se* landlords because they do not strictly comply with the rules of the District Court.

Once the complaint has been filed a trial date will be scheduled, usually within two weeks, depending on the jurisdiction. A summons (and copy of the complaint) commanding the tenant to appear at trial must be served on the tenant prior to the trial date. The Sheriff's office for the county in which the action is filed will handle service of process. Although the Sheriff's office is supposed to go to the premises and attempt to personally deliver the summons and complaint to the tenant, this rarely, if ever, happens. Instead, the Sheriff will go to the premises and "post" or affix a copy of the complaint to the front door or some other conspicuous area on the property. In addition, the sheriff will mail a copy of the summons and complaint to the tenant at the premises.

Under the rent court's rules, the Sheriff's posting of the complaint at the premises is only sufficient for the landlord to gain a judgment for possession. In other words, while "posting the premises" provides sufficient notice to a tenant to permit the landlord to evict him, it does not provide sufficient notice for the Court to enter a money judgment

in the landlord's favor for any past due rent. In order get sufficient "personal service" to support a money judgment, it is generally necessary to hire a private process server who will go out and locate the tenant and deliver the summons and complaint to him personally before the trial date. If the tenant is a commercial entity, it most likely will have a "resident agent" that can be served. The resident agent's name and address can be located on the Maryland State Department of Assessments and Taxation's website. In any event, effecting personal service on the tenant can be challenging because there is little time between the filing of the complaint and the trial date to personally serve the tenant.

On the day of trial, if the landlord (or his counsel) fails to appear, the case is dismissed without prejudice to be re-filed later. If the landlord appears and the tenant does not, a judgment "by default" will be entered in the landlord's favor for possession of the property, and the Court will determine the amount of past due rent and late fees the tenant owes through the date of judgment. If requested, and if personal service was effected on the tenant, a money judgment for the amount of unpaid rent sued for in the complaint will also be entered in the landlord's favor.

If both parties appear, the Court will inquire whether the tenant disputes the amount of unpaid rent claimed in the complaint. If the tenant does not dispute the amount owed, a judgment will be entered for the landlord's possession of the property, and again, if the landlord gained "personal service" over the tenant, a money judgment will be entered as well for the requested amount of past due rent.

If the tenant does not concede the amount of rent owed, the parties will need to have a brief trial. The trial is essentially limited to the following questions: Is there a lease? Is the tenant obligated to pay rent? Has the tenant failed to pay rent? And if so, how much rent is owed? In cases involving commercial leases, it is no defense to a failure to pay rent that there is an unrepaired defect in the property. In cases involving residential leases, a significant unrepaired defect in the property may be a defense to a landlord's action for rent and possession, but tenants often are barred from this defense because they fail to pay into escrow with the Court the rent that would be owed under the lease as it comes due.

Once the landlord has secured a judgment for possession of the property, he can begin the process of evicting the tenant. If the landlord secures a money judgment in rent court as well, he can also begin the process of converting that judgment to a civil money judgment to begin collection efforts.

The tenant has four days, by statute, to pay the amount of unpaid rent determined by the Court at trial. If after four (4) days the tenant has not paid the unpaid rent with certified funds, cash, or money order, the landlord can petition the District Court for a "warrant of restitution." The landlord must request the warrant within sixty (60) days of the date of the possession judgment, or else the judgment becomes stale, and the landlord must restart the process from the beginning by filing another complaint.

The District Court will ultimately grant the petition for warrant of restitution and issue its warrant. This warrant is the eviction order. The warrant will be sent from the Court directly to the Sheriff's office, which will schedule the tenant's eviction. A copy of the warrant of restitution will be mailed to the tenant and the landlord.

Once the landlord receives notice that the warrant has been issued, the landlord must contact the Sheriff's office to schedule the eviction. The landlord will receive his copy of the warrant well before it makes its way through the Sheriff's office to the proper deputy handling the eviction. In busier jurisdictions, such as Baltimore City, this can take three to four weeks, and it is not uncommon for warrants to get lost along the way, and copies need to be reordered from the Court. The best advice is simply to keep checking in with the Sheriff's office to see when they receive their copy of the warrant.

The various Sheriff's offices around Maryland schedule evictions in different ways. Generally, evictions are only held on certain days of the month, and the Sheriff's office is often booked out several weeks. It is important to review local codes concerning notice to tenants concerning eviction. In certain jurisdictions, like Baltimore City, the Sheriff's deputy will not evict a tenant if the landlord cannot show, at the time of eviction, that proper *post warrant* notices were sent to the tenant.

In general, even in the busiest jurisdictions, a landlord can have a tenant successfully evicted from the premises within 45 to 60 days of filing the complaint. At any time prior to the actual eviction of the tenant, *i.e.* the Sheriff's deputy arriving at the premises to remove the tenant, the tenant can pay the amount of unpaid rent and fees determined by the Court to be owed in order to "redeem" the premises. If the tenant redeems the premises, the landlord cannot move forward with the eviction, or if he does, it would very likely be viewed as the landlord's termination of the lease. However, a landlord can "cut off" the right of redemption if the tenant has had three prior rent judgments entered against him in a twelve month period.

On the day of eviction it is critical that the landlord (or his counsel if he attends the eviction) has copies of all documents and paperwork evidencing the judgment, warrant, etc., and keys to be able to access the premises. In addition, in order to actually effect the eviction, the landlord must have a locksmith on site ready and able to change the locks. The Sheriff's deputy will arrive at the premises, review the paperwork, and then enter the premises to remove any tenants, forceably if necessary. After the tenants are removed, the locksmith can change the locks, and with that, the tenant is evicted.

It is equally important to consult local laws concerning how a tenant's property may be disposed of in an eviction. Generally, any property of the tenant left in and around the premises is deemed to be abandoned by operation of law. The landlord can then schedule to have the tenant's property removed and disposed of as he wishes in a manner authorized by law. The law, at least in Baltimore City, prohibits the landlord from removing the tenant's personal property and placing it on the street.

Although the process can be frustrating at times for landlords, the rent court system in Maryland is a fairly swift and efficient mechanism by which landlords can have their property returned to them when a tenant fails to pay rent on time. If you or anyone you know encounters a landlord-tenant issue, please feel free to have them contact Paul M. Flannery (pflannery@rosenbergmartin.com) or Douglas J. Furlong (dfurlong@rosenbergmartin.com) at (410) 727-6600, or any other attorney in the litigation or real estate sections at Rosenberg | Martin | Greenberg:

Benjamin Rosenberg	brosenberg@rosenbergmartin.com
Barry C. Greenberg	bgreenberg@rosenbergmartin.com
Gerard P. Martin	gmartin@rosenbergmartin.com
Stanley S. Fine	sfine@rosenbergmartin.com
Gerard J. Gaeng	ggaeng@rosenbergmartin.com
Steven F. Wrobel	swrobel@rosenbergmartin.com
Caroline D. Ciraolo	cciraolo@rosenbergmartin.com
Cynthia L. Spell	cspell@rosenbergmartin.com
Shawn J. Sefret	ssefret@rosenbergmartin.com
Andrew H. Baida	abaida@rosenbergmartin.com
David M. Wyand	dwyand@rosenbergmartin.com
Patrick M. Martyn	pmartyn@rosenbergmartin.com
Hilary J. O'Connor	hoconnor@rosenbergmartin.com
T. Christine Pham	cpham@rosenbergmartin.com
Matthew S. Wineman	mwineman@rosenbergmartin.com
James E. Crossan	jcrossan@rosenbergmartin.com
Sheelagh Allston	sallston@rosenbergmartin.com
Jordan Frame	jframe@rosenbergmartin.com
Kari M. Kelly	kkelly@rosenbergmartin.com
Caroline L. Hecker	checker@rosenbergmartin.com
Melody Tagliaferri Cronin	mtagliaferri@rosenbergmartin.com
Stuart Cherry	scherry@rosenbergmartin.com