



ARE YOU STRUGGLING TO PAY YOUR RENT?

RENTERS HAVE RIGHTS.

YOU CANNOT BE FORCED TO LEAVE YOUR HOME WITHOUT A COURT PROCESS

If you are behind on your rent, your landlord cannot evict you without going to court first. It is a crime for a landlord to try to force you to leave without going to court. The landlord can ask you to leave and warn that they will start a court case if you do not, but the landlord cannot do any of the following:

- Change the locks,
- Remove your property,
- Remove the door,
- Turn off the electricity, heat, or hot water.



If your landlord does any of these things or anything else that makes it impossible for you to stay in your home, call the police right away (911). If the police do not get you back into your home, you can ask the court for an order to get you in. Call Nassau Suffolk Law Services or other lawyers for help. If the police do not help you, you can also report this to the New York Attorney General's Office at 800-771-7755 or go to www.bit.ly/UnlawfulEviction.

YOUR LANDLORD HAS TO GIVE YOU NOTICE BEFORE GOING TO COURT

There are two different kinds of eviction cases. There are different notice rules for each type of case:

❖ Nonpayment Proceedings

If your landlord wants to evict you because you did not pay the rent, they must give you two warning letters before starting an eviction case against you:

1. 5-Day Late Rent Notice

Your landlord must send you a letter by certified mail if your rent is not received within five days of your rent due date to let you know that your rent was late. Certified mail looks like this.



2. 14-Day Rent Demand

Your landlord must serve you a 14-day rent demand. Serving a document means delivering it following rules described by law. Your landlord cannot serve the document himself, but anyone else can serve it. The documents don't have to be delivered directly to you personally. They can be left with another responsible person in your home as long another copy is mailed to you. If the person delivering the document cannot find anyone to hand the documents to after trying three times, they can tape the documents to your door and then follow up by mailing another copy to you.

❖ Holdover Proceedings

If your landlord decides to stop renting to you at the end of your lease or month-to-month tenancy, this is called a holdover proceeding. Your landlord must give you advanced notice that they do not want to continue renting to you. How much notice you get depends on how long you have lived in the home. You are entitled to notice even if you never had a written lease:

- If you lived in your home for less than a year, you get 30 days' notice.
- If you lived in your home for between 1 and 2 years, you get 60 days' notice.
- If you lived in your home for more than 2 years, you get 90 days' notice.

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Another type of holdover proceeding is where your landlord says you broke one of your lease rules. If your landlord wants to bring this kind of holdover proceeding, then they must follow any notice rules in the lease.

EVICTION CASES IN THE COURTS

Everyone has the right to go to court to defend themselves and present arguments (defenses) explaining why they should not be evicted.



COURT CASE STARTS

You will learn that your landlord started an eviction case when you are served with a Summons and Notice of Petition. These documents must be served following the special rules we described earlier. These documents will tell you when to go to court. As soon as you receive these documents, you should try to find a lawyer to help you.

❖ **Get Time to Find a Lawyer or Prepare**

When you go to court, it is called an appearance. When you go the first time, you can ask for a 14-day adjournment. Adjournment means a request to reschedule for later. This will give you more time to find a lawyer if you don't have one yet. It also gives you time to try to work out a settlement with your landlord. A settlement is an official agreement that both sides must follow. For example, a settlement might be an agreement that the landlord will forgive the rent you owe if you leave by a particular date.

❖ **Present Your Defenses**

At your second appearance, you and your landlord will each have a chance to present any evidence that you have. See the next page for special COVID-19 related defenses.

AFTER COURT

If the judge decides that you should be evicted, it will not happen right away. Only the Sheriff can remove you from your home. Your landlord must deliver papers from the court to the Sheriff. Then, the Sheriff will serve you a 14-day notice of eviction.

If your landlord took you to court because you did not pay your rent, you have until the end of these 14 days to pay the full amount due to avoid being evicted.



If you are still in your home at the end of the 14-day period, the Sheriff will remove you and your property from the home. In Nassau County, your landlord must pay for your property to be put in storage for one month. But in Suffolk County, your property will be put out on the street.

COVID-19 PROTECTIONS FOR RENTERS

Because of COVID-19, renters have new defenses. These defenses are not automatic and do not prohibit all evictions.

❖ **COVID-19 Emergency Eviction and Foreclosure Prevention Act:** The Emergency Eviction Prevention Act is a New York law passed in December 2020 to protect tenants who cannot pay their rent because of COVID-19, cannot afford to move to new housing during the pandemic or would experience a health risk if forced to leave their homes during the pandemic. Tenants who meet these criteria may complete a Hardship Declaration to stay most eviction proceedings until at least May 1, 2021. Learn more about the Emergency Eviction Prevention Act in our Eviction FAQ.

❖ **Tenant Safe Harbor Act:** The Tenant Safe Harbor Act is a New York law passed in June 2020 to protect tenants who cannot pay their rent because of COVID-19. If you can prove that you missed rent payments because of financial hardship during the pandemic, then you should not be evicted for nonpayment of rent. You will still owe all of the

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rent you missed to your landlord. This law does not protect you from eviction for reasons other than nonpayment of rent.

- ❖ **Executive Order 202.66:** Executive Order 202.66 says that tenants who can show financial hardship since March 7 cannot be evicted until January 2021. Even if the court granted a warrant of eviction before the lockdown, the court must schedule a conference with the parties before the eviction can take place. If a tenant proves that they experienced a financial hardship during the pandemic, the eviction cannot take place until after January 1, 2021.
- ❖ **Federal Moratoria:** The CDC issued an Order prohibiting landlords from taking any action to remove or cause the removal (eviction) of many renters and other occupants through March 31, 2021. Renters and occupants must deliver a declaration to the landlord that swears to several things, including that the renter:
 - is unable to pay rent due to substantial loss of income, or extraordinary out-of-pocket medical expenses;
 - will likely become homeless or move into shared housing if they are evicted; and
 - tried as hard as possible to get financial help and make partial rent payments.

The CDC Order does not prohibit evictions based on criminal activity on-premises, activity that threatens the health or safety of other residents, for damaging or threatening risk of damage to the property, or violating other lease obligations other than paying rent.

The federal CARES Act eviction moratorium expired July 25, 2020. Still, tenants who live in federally subsidized properties or in properties with a federally backed mortgage must receive a 30-day notice from the landlord after July 25, 2020, before the landlord can start an eviction proceeding. This notice requirement is in addition to the New York State notice requirements described above.

Contact a lawyer for help figuring out if these defenses apply to you.

CONTACT US

Nassau Suffolk Law Services is committed to helping people in need vindicate their rights under the law.

Early legal intervention is often the most effective way to resolve an issue before it becomes complicated. If you have a question about your legal rights, call Nassau Suffolk Law Services.

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