

Residential Tenant Evictions

FOR UNPAID RENT

To view and access the forms included in this document log on to www.floridabar.org (for non local forms) and www.leeclerk.org

Pursuant to F.S. 454.18 & 28.215: Florida Law prohibits the Clerk's Office from assisting you with the management of your case. The Clerk's office is without authority to advise or instruct a party in filing a case for tenant eviction. If you are not certain how to prepare these papers and file your case, it is strongly advised that you seek an attorney for assistance. Please note that the forms referenced should be used only for residential leases for non-payment of rent. If you have a commercial, agricultural, or personal property lease we suggest you consult with an attorney.

FL 454.18 [Officers not allowed to practice—No sheriff or clerk of any court, or full-time deputy thereof, shall practice in this state, ...](#)

FL 28.215 [Pro se assistance.—The clerk of the circuit court shall provide ministerial assistance to pro se litigants. Assistance shall not include the provision of legal advice.](#) History.—s. 27, Ch. 2003-402.

RESIDENTIAL TENANT EVICTION CHECKLIST:

--- STEP 1 ---

Before you start a lawsuit to end a residential lease, you must first give proper written notice.

- NOTICE FROM LANDLORD TO TENANT – TERMINATION FOR FAILURE TO PAY RENT (3-Day Written Notice) ([Form 1](#))**
- When calculating this time, DO NOT count the day of delivery, weekends, or holidays.
 - All tenants must be listed on each form.
 - If tenant(s) name is not known, they may be listed as “*Unknown Tenant*”.

--- STEP 2 ---

After waiting three (3) business days AND no rent has been received, the following completed documents need to be presented to the clerk before a case number and judge can be assigned.

- COMPLAINT for Eviction:**
- EVICTION – POSSESSION OF PROPERTY ([Form 5](#))**
- OR**
- EVICTION – POSSESSION AND DAMAGES (*damages = back rent*) ([Form 5A](#))**
- AND**
- All tenants must be listed on the complaint.
 - The complaint must be signed and include mailing address and telephone number.
- AND**
- Copy of Notice to Pay Rent or Vacate.
 - If a written lease is involved, attach a copy of it to the complaint.
 - Two (2) copies of the Complaint per defendant with all attachments.
- AFFIDAVIT OF OWNERSHIP AND NOTICE TO PARTIES ([Local Form TE-A](#))**
- Provides proof of ownership of property, required if self-represented (non-attorney) attesting to the right to file the complaint.
 - Must be notarized or witnessed by a deputy clerk, [fees apply](#).

- EVICTON SUMMONS** ([Form available online in County Civil section or at the Clerk's office](#))
 - Three (3) copies are required for each defendant.

- Envelopes addressed to each tenant with sufficient postage.
 - The majority of cases filed require two (2) stamps per envelope.

- Filing Fee: Payable to **Lee County Clerk of Court**.
 - See current [Fee Schedule](#).

--- STEP 3 ---

Wait the appropriate number of days after summons is served (see attached flowcharts) for tenant to respond to eviction complaint.

Please include the following with each form in this step:

- *One (1) original to be filed.*
- *One (1) copy for each party – plaintiff(s) and defendant(s).*
- *Envelopes addressed to all parties plaintiff(s) and defendants(s). Sufficient postage is required. Note: The Clerk's Office does not sell postage stamps or envelopes.*

If you have filed a “COMPLAINT FOR EVICTION - POSSESSION OF PROPERTY (ONLY) (Form 5)” and the tenant does NOT respond to your complaint file the following documents:

- MOTION FOR CLERK'S DEFAULT - RESIDENTIAL EVICTION** ([Form 76](#)) (FAILURE TO RESPOND)

OR

If tenant responds and does NOT deposit rent, file the following documents:

- MOTION FOR DEFAULT FOR FAILURE TO DEPOSIT RENT – RESIDENTIAL EVICTION** ([LOCAL FORM TE-B](#))

- DEFAULT AS TO FAILURE TO DEPOSIT RENT – RESIDENTIAL EVICTION** ([LOCAL FORM TE-C](#))

AND

- FINAL JUDGMENT - EVICTION** ([Form 66](#))

OR

If tenant answers complaint and deposits rent or contests the case, arrange for a hearing.

- A date and time for the hearing must be obtained by contacting the judicial assistant for the assigned judge.
- See [Scheduling Hearings](#).

OR

If you have filed a “COMPLAINT FOR EVICTION AND DAMAGES (Form 5A)” and the tenant does NOT respond to your complaint:

- MOTION FOR CLERK'S DEFAULT - RESIDENTIAL EVICTION ([Form76](#))

OR

If tenant responds and does NOT deposit rent, file the following documents:

- MOTION FOR DEFAULT FOR FAILURE TO DEPOSIT RENT – RESIDENTIAL EVICTION ([LOCAL FORM TE-B](#))
- DEFAULT AS TO FAILURE TO DEPOSIT RENT – RESIDENTIAL EVICTION ([LOCAL FORM TE-C](#))

AND

- FINAL JUDGMENT - EVICTION ([Form 66](#))

Twenty (20) days after personal service, file the forms for damages (back rent):

- AFFIDAVIT OF DAMAGES ([Form 80](#))
- Must be notarized (notary services may be provided by Clerk, fees apply)
- MOTION FOR CLERK’S DEFAULT - DAMAGES (RESIDENTIAL EVICTION) ([Form 77](#))
- FINAL JUDGMENT – DAMAGES ([Form 9](#))

If tenant answers complaint and deposits rent or contests the case, arrange for a hearing.

- A date and time for the hearing must be obtained by contacting the judicial assistant for the assigned judge.
- See [Scheduling Hearings](#).

--- STEP 4 ---

Complete the following step to remove tenant if tenant has not moved out after the Final Judgment is filed with the Clerk.

- WRIT OF POSSESSION ([Form 11](#))**
- Present the completed original and a copy to the clerk.
 - The clerk will issue the Writ of Possession which must be delivered to the Sheriff for execution.
 - Contact the Sheriff's office for fee information.

Lee County Sherriff's Department
Civil Division
2072 Victoria Avenue
Fort Myers, FL 33901
(239) 477-1353

If tenant has deposited funds into the court registry, you must complete the following steps in order to claim these funds.

- MOTION TO DISBURSE RENT ([Local Form TE-D](#))**
- ORDER GRANTING MOTION TO DISBURSE RENT ([Local Form TE-E](#))**
- If landlord wants to dismiss the case, file **NOTICE OF DISMISSAL BY PLAINTIFF ([Local Form TE-F](#))**

--- REFERENCES ---

The following websites provide additional information regarding landlord/tenant laws. Due to continual changes in the law, the Clerk's office does not guarantee the accuracy of the below information:

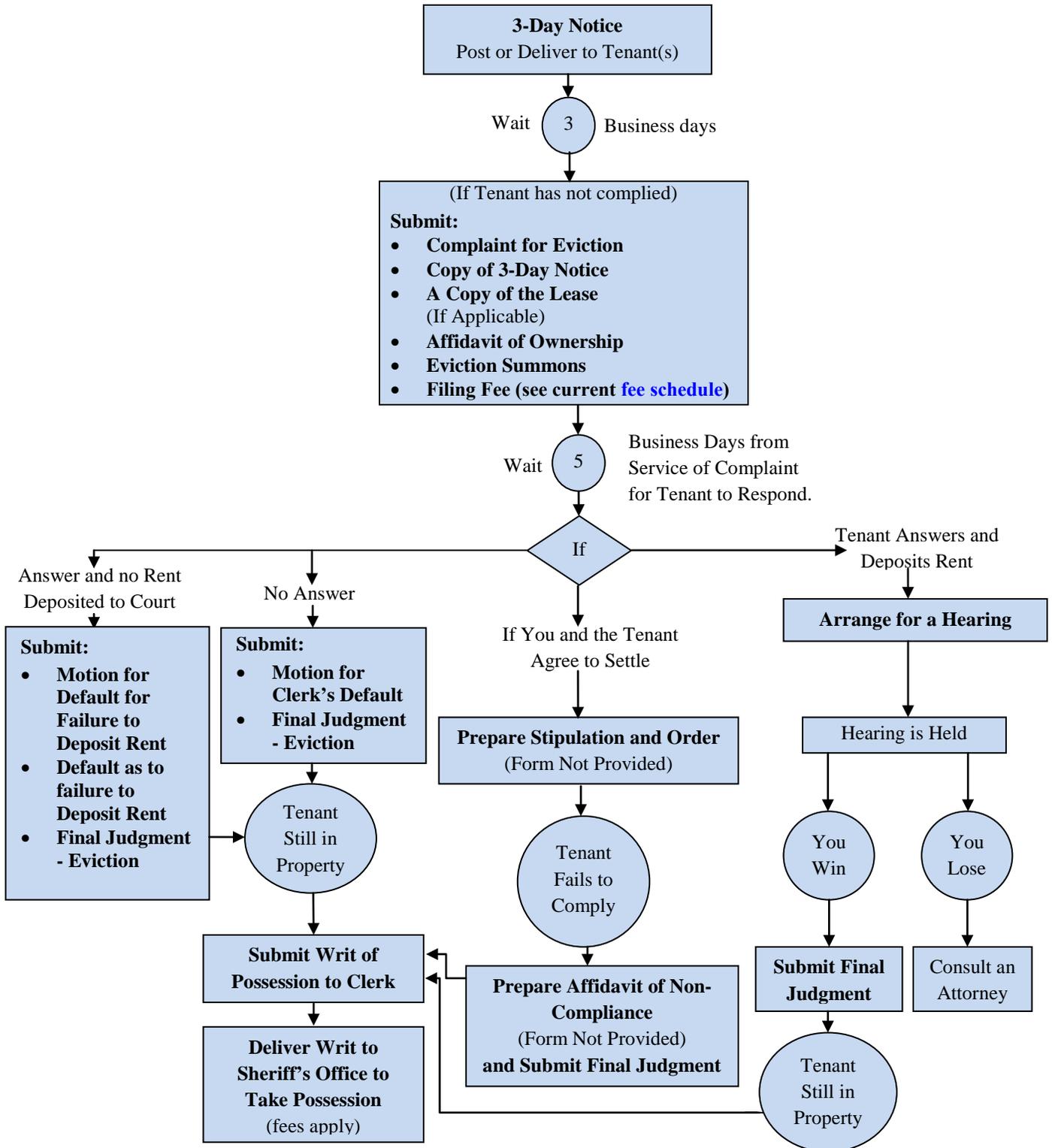
Citizen Dispute Settlement Program: Landlord and Tenant Handbook:
http://www.ca.cjis20.org/pdf/cds_lth.pdf

Florida Residential Tenancies State Statutes :
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0083/0083PARTIIContentsIndex.html

Rights and Duties of Tenants and Landlords:
<https://www.floridabar.org/tfb/TFBConsum.nsf/0a92a6dc28e76ae58525700a005d0d53/e21a25a8c288bed98525740800537588!OpenDocument>

Residential Eviction Flowchart (Possession Only)

If “Complaint for Eviction” or “Complaint for Eviction and Damages” is filed proceed with the flowchart below to gain possession of the property.



Residential Eviction with Damages (back rent) Flowchart

If “Complaint for Eviction and Damages” is filed proceed with the flowchart below to obtain a Final Judgment for Damages.

