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Tenant's Right to Prevent Eviction for Non-payment of Rent - 2023

Although there are exceptions, if a landlord wants to evict you for not paying rent, the landlord must give you a written notice to either move or pay rent in 5 days. If you pay the rent in 5 days, you get to stay. If you do not pay, the landlord can start an unlawful detainer action (an eviction) in General District Court (GDC). You do not have to move just because the landlord has given a written notice.

Even if your landlord files an unlawful detainer (an eviction lawsuit) in General District Court (GDC), you do not have to move just because your landlord has given a written notice or filed in court. If the court finds you do owe rent, you can be evicted. *However, you may be able to prevent eviction by paying all amounts owed, or by offering to pay all amounts owed, if there are no other reasons stated for eviction.*

How do I prevent eviction for non-payment of rent by paying all amounts owed?

Under Virginia law, tenants get four chances to pay their rent late and stay.

The first chance is within any grace period of the lease (if any). If you pay the rent within the grace period, you get to stay. You may do this any number of times.

The second chance is after the grace period (if any) ends and before the landlord has filed an unlawful detainer eviction lawsuit. Usually this is the time during which the landlord has given you 14-day nonpayment notice. If you pay the rent and the late fee during this time period, you get to stay. You may do this any number of times.

The third chance is after the landlord has filed an unlawful detainer eviction lawsuit and on or before the court date. This is called a redemption (pay and stay), or a redemption tender (an offer to pay and stay).

What is a redemption (pay and stay)?

A redemption means the eviction lawsuit must be dismissed as paid if you pay the landlord, the landlord's attorney, or the court all amounts owed as of the court date. All amounts owed means all rent (including a new month's rent if that has come due), all late fees set forth in a written lease (including a new month's late fee if that has come due, court costs, and

reasonable attorney's fees (if a landlord's attorney is involved). If there is a redemption, always get a receipt and come to court with the receipt to make sure the case is dismissed paid.

What is a redemption tender (offer to pay and stay)?

A redemption tender means you come to court on the first court date and show the judge a written commitment from a local government or non-profit agency to pay all or part of the redemption amount. If so, the judge must postpone the case ten days and allow you to come back with the full redemption amount on that day. Again, get receipts and come to court with them to be sure the case is dismissed as paid. If not, the landlord gets an order of possession.

What is an extended right of redemption (extended right to pay and stay)?

The fourth chance is an extended right of redemption (extended right to pay and stay). If the landlord wins the lawsuit, the judge will issue a judgment of possession. After that, the landlord may ask the court to issue a Writ of Eviction. This goes from the clerk to the Sheriff to the tenant, and authorizes the Sheriff to evict on a specific date. The Sheriff must give you at least 72 hours advance notice of the eviction, and usually gives about 7-10 days.

Under the extended right of redemption, you can pay the landlord, landlord's attorney, or the court all amounts owed as of 48 hours before the Sheriff's scheduled eviction date.

All amounts owed means all rent (including a new month's rent if that has come due), all late fees set forth in a written lease (including a new month's late fee if that has come due), court costs, Sheriff's fees, and reasonable attorney's fees (if a landlord's attorney is involved). Payment must be by cashier's check, certified check, or money order. If so, the Sheriff's eviction is cancelled. Confirm with both the landlord and the Sheriff to be sure.

If your landlord rents out five or more units, you may use these rights at any time. Otherwise, these rights can be exercised only once in a 12-month period.

What if I do a redemption and I get evicted anyway?

If a landlord evicts you even if you have properly done a redemption, that would be an unlawful exclusion. However you have a quick remedy. Go to General District Court and file a Tenant's Petition for Relief from Unlawful Exclusion (Form DC-431). You can file this on your own, by yourself, without an attorney.

When you fill out the Tenant's Petition, you need to decide what you want the judge to do. You can ask the judge for any of these things: allow you back into possession, end the rental agreement, and get actual damages and attorney's fees.