

WHAT TO DO IF YOUR LANDLORD LOCKS YOU OUT OR TURNS OFF THE UTILITIES

Chapter 83, Part II, of the Florida Statutes governs relations between residential landlords and tenants in Florida. Under that law there are only three ways your landlord can get possession of the premises in which you are living: (1) you abandon the premises by not living there for an extended period of time without notifying your landlord or paying your rent; (2) you voluntarily allow the landlord to take possession of the premises; and (3) the landlord brings a lawsuit in County Court asking the Judge to order that you be evicted.

In other words, if you are living in the premises you rent and wish to stay there, the landlord cannot order you to leave or lock you out. Instead the landlord must bring a lawsuit to obtain an order evicting you. This is true even if you have not paid your rent or violated the terms of your rental agreement. The law applies whether you rent an apartment, house, duplex, condo, mobile home or mobile home lot.

If your landlord brings a lawsuit to evict you, you are entitled to appear and defend yourself, with or without an attorney. If the Judge finds for the landlord, the Judge will sign an order directing the Sheriff's Department to evict you. Only the Sheriff's Department, not the landlord, can legally force you to leave your premises.

Sometimes a landlord will try to get around the law by turning off the electricity, changing the locks, removing the doors, or doing something else to make the tenant leave. **THIS IS AGAINST THE LAW.** If your landlord does anything like this, you can sue the landlord for three times the rent or actual damages, whichever is more, and also recover your attorney fees and costs. You can sue the landlord in Small Claims Court without an attorney if your damages are less than \$5000. You can also file for an injunction to order the landlord to let you back in, or turn on the utilities.

If your landlord tries to force you to leave without going through the Court, you should call the police. Show the police this handout and ask for their assistance.

Sometimes a landlord will reconsider and give you back your premises if you explain to him what the law requires. The best way to do this is to write the landlord a letter. A sample letter is attached. Keep a copy of the letter you give your landlord. Copies of the laws protecting you are also attached.

Statute 83.67 states that it is illegal for a landlord to do anything to force the tenant to leave, such as changing the locks or turning off the utilities. This section also says that a tenant may obtain an injunction to order the landlord to stop the illegal activity and that the tenant may be awarded damages and attorney's fees and costs.

§83.67 Prohibited practices.

(1) No landlord of any dwelling unit governed by this part shall cause, directly or indirectly, the termination or interruption of any utility service furnished the tenant, including, but not limited to, water, heat, light, electricity, gas, elevator, garbage collection, or refrigeration, whether or not the utility service is under the control of, or payment is made by, the landlord.

(2) No landlord of any dwelling unit governed by this part shall prevent the tenant from gaining reasonable access to the dwelling unit by any means, including, but not limited to, changing the locks or using any bootlock or similar device.

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord shall not be liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there shall be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY THE FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY. For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

(4) A landlord who violates the provisions of this section shall be liable to the tenant for actual and consequential damages or 3 months' rent, whichever is greater, and costs, including attorney's fees. Subsequent or repeated violations which are not contemporaneous with the initial violation shall be subject to separate awards of damages.

(5) A violation of this section shall constitute irreparable harm for the purposes of injunctive relief.

(6) The remedies provided by this section are not exclusive and shall not preclude the tenant from pursuing any other remedy at law or equity which the tenant may have.

Statute 83.59 states that the only way a landlord can make a tenant leave the unit is by filing a lawsuit in County Court to evict the tenant and obtaining a final judgment of eviction.

§83.59 Right of action for possession

(1) If the rental agreement is terminated and the tenant does not vacate the premises, the landlord may recover possession of the dwelling unit as provided in this section.

(2) A landlord, the landlord's attorney, or the landlord's agent, applying for the removal of a tenant shall file in the county court of the county where the premises are situated a complaint describing the dwelling unit and stating the facts that authorize its recovery. A landlord's agent is not permitted to take any action other than the initial filing of the complaint, unless the landlord's agent is an attorney. The landlord is entitled to the summary procedure provided in s. 51.011 [F.S. 1971], and the court shall advance the cause on the calendar.

(3) The landlord shall not recover possession of a dwelling unit except:

(a) In an action for possession under subsection (2) or other civil action in which the issue of right of possession is determined;

(b) When the tenant has surrendered possession of the dwelling unit to the landlord; or

(c) When the tenant has abandoned the dwelling unit. In the absence of actual knowledge of abandonment, it shall be presumed that the tenant has abandoned the dwelling unit if he or she is absent from the premises for a period of time equal to one-half the time for periodic rental payments. However, this presumption shall not apply if the rent is current or the tenant has notified the landlord, in writing, of an intended absence.

(4) The prevailing party is entitled to have judgment for costs and execution therefor.

Date _____

Landlord's Name

Landlord's Address

City State Zip

Dear _____:

On _____, I believe you did the following illegal acts to force me out of my unit:

Under Florida law as contained in Statute §83.67 of Chapter 83 of the Florida Statutes, if you want me out of the unit, then you must file an eviction action in Dade County Court. **THERE ARE NO SELF HELP EVICTIONS IN THIS STATE.** If the Judge in the eviction case orders me evicted, then the Dade County Sheriff's Department will put me out.

The actions you have taken may violate Florida's landlord/tenant law and may make you liable to me for three times the rent or actual damages, whichever is greater, and my attorney's fees and costs. I am attaching a copy of this law. I suggest you consult with your attorney who can confirm this.

I demand that you cease your illegal activity within three (3) hours of receiving this letter. That should give you sufficient time to confirm that what I have said is true.

Sincerely,